

***United States Court of Appeals
for the Second Circuit***



APPENDIX

76-1156

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

DOCKET NO. 76-1156

UNITED STATES OF AMERICA,

PLAINTIFF-APPELLEE

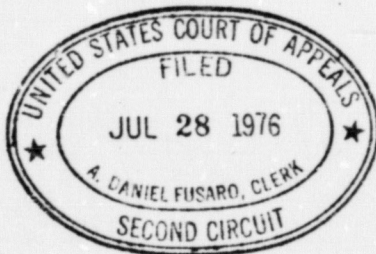
VS

JOHN ANTHONY HOUSAND,

DEFENDANT-APPELLANT

B
P
15

APPENDIX



WILLIAM H. CLENDENEN, JR.
DAVID M. LESSER
CLENDENEN & LESSER
152 TELLER STREET
NEW HAVEN, CONNECTICUT 06510
203/787-1183

PAGINATION AS IN ORIGINAL COPY

TABLE OF CONTENTS

APPENDIX A NO 75-40

1. Docket Entries	1 A
2. Indictment	9 A
3. Charge To The Jury	25 A

APPENDIX B NO H75-185

1. Docket Entries	1 B
2. Indictment	6 B

REC'D MAY 21, 1976

**CRIMINAL DOCKET
UNITED STATES DISTRICT COURT**

T. EMET CLARIE

H 75 / 40

D. C. Form No. 100 Rev.

[illegible][illegible]

DATE	PROCEEDINGS
1975	
3/21	The Grand Jury at Hartford returned a True Bill of Indictment charging violation of 18 USC 371 in count 1 - conspiracy; and 18 USC 1623 in cts. 2,3, & 4 - false declarations before the Grand Jury or Court. Bench Warrants to issue with bond set at \$25,000.00 with full surety for Mr. Bucci and \$100,000.00 for Mr. Housand. It is a condition of the bond that Mr. Bucci surrender his passport. On Motion of Atty. John Dowd the indictment on H-74-185 is dismissed without prejudice. (Clarie, J.)
3/21	Bench Warrants issued in duplicate and with certified copies of the indictment handed US Marshal for service.
3/25	BUCCI- PLEA of not guilty entered to count 1. Two weeks for Motions- Govt. to respond in one week. Atty. Coffey requests that Court give Mr. Bucci two weeks to decide whether he will represent himself. Atty. Bucci to appear on April 8th at 10:00am to check US Atty's. file. Motions to be filed on April 14th. Govt. to respond by April 21st. Atty. Bucci request personal surety bond. Govt. agrees to Atty. Bucci request to put up his house. All papers to be filed with US Marshal by April 2nd. (Clarie, J.)
	CONTINUED

DATE	PROCEEDINGS
1975	
4/1	CJA 20 executed (Templeton, D.C.) appointing Maxwell Heiman to represent Deft. John A. Housand.
3/31	HOUSAND - PLEA of not guilty entered to four counts of Indictment. Attys. McNamara and Elliott are released as Attorneys for Def. Housand. Court will appoint new counsel.(Clarie,J.)
3/31	Executed Marshal's return filed re Deft. Bucci. (Warrant for Arrest of Defendant.)
4/4	Executed Marshal's return filed re Deft. Housand. (Warrant for Arrest of Defendant.)
4/8	Bond in the amount of \$25,000.00 with property surety, filed by Deft/ Bucci.
4/11	Affidavit of Peter R. Casey, III, Special Attorney, filed. (Sworn to before Clarie,J.)m-4/15/75
4/11	NOTICE OF READINESS; FILED BY GOVT.
4/14	Motion to Withhold Filing of Special Motions, filed by Mr. Bucci.
4/24	Mele Motion, filed by Defendant.
4/28	Motion For Change of Venue and Motion To Disqualify Honorable Thomas Murphy and Honorable T. Emmet Clarie, filed.
4/29	Government Response To Motion (Bucci) For Change of Venue Argument, filed.
5/5	Hearing on Motions filed by Atty. Bucci - Motion For Change of Venue and Motion To Withhold Filing of Special Motions - Motion For Change of Venue to Providence is denied from Bench in H-75-39 and H-75-40. Atty. Coffey requests Court to order Mr. Bucci to advise Clerk's Office shortly whether he will obtain counsel - Atty. Bucci says he will not request delay whether he will act for himself or obtain counsel. Decision reserved on all other motions.(Clarie,J.)
5/7	JOHN A. HOUSAND - Motion of Defendant, John Anthony Housand, To Compel Government to Transcribe All Grand Jury Testimony; Defendant John Anthony Housand's Motion For Relief from Prejudicial Joinder; Defendant John Anthony Housand's Motion for Bill of Particulars; Motion of the Defendant, John Anthony Housand for Discovery and Inspection and Motion To Compel Transcription and Production of Certain Trial Minutes and Grand Jury Proceedings, filed.
5/13	Appearance of Maxwell Heiman entered and filed to represent Defendant, John Anthony Housand.
5/19	Endorsement entered and filed on Deft. Bucci's Motion To Disqualify Honorable Thomas Murphy and Honorable T. Emmet Clarie, "The defendant's Motion To Disqualify Honorable Thomas Murphy and Honorable T. Emmet Clarie has become moot in respect to Criminal No. H-75-39 since that case has been assigned to Judge Jon O. Newman. Decision reserved as to Criminal No. H-75-40. So ordered."(Clarie,J.)m-5/19/75
"	Endorsement entered and filed on Deft. Bucci's Motion To Withhold Filing of Special Motions, "The defendant's Motion to Withhold Filing of Special Motions is denied. So ordered."(Clarie,J.)m-5/19/75
"	Endorsement entered and filed on Deft. Bucci's Motion For Change of Venue, "The defendant's Motion for Change of Venue is denied. So ordered."(Clarie,J.)m-5/19/75
"	Endorsement entered on Deft. Bucci's Mele Motion, "The defendant's motion to order disclosure of all statements given by John A. Housand made after the indictment, is granted. The alternative motion to dismiss the indictment is denied. So ordered."(Clarie,J.)m-5/19/75
	Copies of the above endorsements handed to Attys. Bucci and Santos in New Haven on 5/20/75 and copies handed Atty. Coffey in Htfd. on 5/19/75

Continued on Page 2

PROCEEDINGS

DATE

1975

5/20

Endorsement entered and filed on Motion of Defendant, John Anthony Housand, To Compel Government to Transcribe All Grand Jury Testimony. "May 20, 1975 Motion granted; So ordered." (Clarie, J.) m-5/20/75
Copies mailed to Attys. Bucci and Heiman and copy handed Atty. Casey US Atty's. Office., Hartford.

5/21

Attested copy of Waiver of Physician-Client Privilege, filed. (Signed by William Marrapese)

5/23

Endorsement entered and filed on Letter of May 23, 1975 to Judge Clarie from Peter R. Casey, III, Spec. Atty., "May 23rd 1975 Request for extension approved as requested." (Clarie, J.) m-5/23/75
Copies sent to Attys. Heiman, Bucci and Casey.

5/23

Response of the United States to The Defendant's Mele Motion, filed.

5/27

4 Motions on calendar - over to June 9 at request of Counsel. (Clarie, J.)

6/3

Response of United States To Defendant's Motion For Relief From Prejudicial Joinder, filed.

6/9

Hearing on Deft. Housand's Motions - Memorandum of Law filed by Atty. Heiman - Decision reserved on all motions. (Clarie, J.)

6/13

Endorsement entered and filed on Defendant John Anthony Housand's Motion For Relief From Prejudicial Joinder, "June 9th 1975 - Motion reserved for the consideration of the presiding judge, prior to the commencement of trial; So ordered." (Clarie, J.) m-6/13/75

Endorsement entered and filed on Motion To Compel Transcription and Production of Certain Trial Minutes and Grand Jury Proceedings, "June 9th 1975 Motion Granted. So ordered." (Clarie, J.) m-6/13/75

Endorsement entered and filed on Motion of the Defendant, John Anthony Housand For Discovery and Inspection, "June 9th 1975 Defense Counsel and Government Counsel reported in open court that they were in agreement, as to the matters which should be produced. The motion is now moot." (Clarie, J.) m-6/13/75

Endorsement entered and filed on Defendant John Anthony Housand's Motion For A Bill of Particulars, "June 9th 1975 Defense counsel and Government counsel reported in open court that they were in agreement as to the matters which should be produced. The motion is now moot." (Clarie, J.) m-6/13/75 Copies of the above endorsements were mailed to Attys. Casey, Heiman and Bucci.

6/23

Government Response To Defendant Housand's Motion For Discovery and Inspection, filed.

7/22

Court Reporter's notes of proceedings held on July 21, 1975, filed in New Haven. (Gale, R.)

7/25

ORDER, filed. (Newman, J.) m-7/25/75 ".....the United States is directed to bear the expense of the exhumation." Copies handed Attys. Wade and Santos and copies mailed to Atty. Bucci and handed to Atty. Coffey.

7/25

Motion For Return of Exhibits, filed. (Not acted upon)

7/28

Motion For Return of Exhibits, filed.

7/29

Response of United States To Motion For Further Discovery Regarding William Marrapese, filed.

7/28

JURY TRIAL - Defendants Request For Voir Dire Exam of Jurors, filed - Defendants Request for Jury Questions, filed - Defendant Zinni's Motion For Restriction of News Media, filed. Defendant Zinni's Motion To Compel Government Witnesses who composed reports to bring with them all notes, etc. Motion of Deft. Zinni re Order of Proof - Govt. Motion

Continued

DATE	PROCEEDINGS
1975	
8/8	Waiver of Physician-Client Privilege, filed by Wm. Marrapese.
8/20	Court Reporter's Notes of Proceedings held on June 9, 1975, filed in Hartford. (Sperber, R.)
8/20	Court Reporter's Notes of P. edings held on March 25, 1975, filed in Hartford. (Sperber, R.)
9/8	Letter dated August 14, 1975 to Judge Clarie from Defendant John A. Housand, filed.
9/22	To be first jury case on 9/23/75. Atty. Heiman files Writ of Habeas Corpus Ad Testificandum and Order signed by Judge Clarie. (Clarie, J.)
9/23	Over to week of November 10th. (Clarie, J.)
11/4	Assignment List Cal. - Continued No date certain - Atty. Heiman on trial. (Clarie, J.)
1976	
1/6	Deft. Andrew Bucci-Transferred to Judge Blumenfeld for his next trial calendar. (Clarie, J.)
	Deft. John Housand - over to 3 weeks. (Clarie, J.)
1/22	Motion For An Order Directing the District Courts Clerks Office To Release the Original Notes of John Housand's Testimony before a Grand Jury on December 6, 1974, filed. (by Govt.)
1/22	Endorsement entered and filed on Motion For An Order Directing The District Courts Clerks Office etc., "1/22/76 Motion granted: except that the original notes shall be turned over, after receipt, to Peter Casey of the U.S. Attys. office and shall not leave the possession of that office. He may then provide for the reading of the notes in his office. So Ordered." (Clarie, J.) m-1/22/76 Copy handed Atty. Peter Casey.
1/22	Receipt signed by Peter Casey, Spec. Atty. for Grand Jury Minutes, filed.
1/23	Motion To Produce Exhibits with Affidavit of Peter Casey, Spec. Atty., filed.
1/23	Endorsement entered and filed on Motion To Produce Exhibits, "1/23/76 Motion granted. So ordered." (Clarie, J.) m-1/23/76 Copy to Attys. Casey, and Heiman sent.
1/19	Jury Assg. List Cal. - Jury to be selected 1/27/76. (Clarie, J.)
1976	
1/20	Jury Assg. List, Cal. - Ready. (Blumenfeld, J.)
1/27	JURY TRIAL - ^{HOUSAND} Voir Dire Oath administered - 58 jurors answer roll call - Voir Dire questions filed by Atty. Heiman - 12 Jurors and 2 Alternates impanelled and sworn. Jury panel excused until tomorrow at 10:00 p.m. (Clarie, J.)
1/28	Endorsement entered and filed on Deft. Housand's Application For Permission to Issue Subpoenas, "1/27/76 Application approved and so ordered." (Clarie, J.) m-1/28/76 Two attested copies handed US Marshal in Hartford. (Deft. Housand)
1/28	JURY TRIAL COMMENCES: 14 Jurors report. Counsel makes opening statements - Govt. exh. 1 thru 5 marked for identification - Govt. exh. 6 & 7, filed - Govt. 1 thru 5 made full exhibits - 6 Govt. Witnesses sworn and testified. Court adjourned at 4:12pm until tomorrow at 10:00am. (Clarie, J.)
1/29	JURY TRIAL CONTINUES: (Housand) - 13 Jurors report - Juror #8 absent due to illness - Juror #8 replaced by Alternate #1 - 2 Govt. witnesses, sworn and testified - Court exhibit 1, 2 & 3, filed - Court

Continued on Page 3

DATE	PROCEEDINGS
1976	Court Exh. #1 given to Atty. Heiman
1/29	cont'd. Exhibit #3 Sealed - Govt. witness recalled and testified -
	Defendant exh. A, filed. Jury admonished concerning publicity.
	Court adjourned at 5:00pm until tomorrow at 10:00am. (Clarie, J.)
1/30	JURY TRIAL CONTINUES: 13 Jurors report - Govt. witness resumes
	stand and testifies - Govt. exh. 8, 9A thru 9E and 10 marked for
	identification - Court adjourned at 12:00N until Tuesday at 10:00am.
	(Clarie, J.)
2/3	JURY TRIAL CONTINUES - Govt's. Memo on Chain of Custody, filed -
	13 Jurors report - Govt. witness previously sworn resumes stand and
	testifies - Govt. exh 11A thru 11J, filed - Govt. exh 8 & 9 made full
	exhibits - 2 Govt. Witnesses sworn and testified - Deft. exh B, marked
	for identification. Court adjourned at 4:45pm until tomorrow at 10:00am
	(Clarie, J.)
2/4	JURY TRIAL CONTINUES: 13 Jurors report - 4 Govt. witnesses sworn
	and testified - Deft. exhibits C, D, E marked for identification -
	Atty. Heiman files Requests to Charge - Jury instructed on publicity.
	Court Adjourned at 5:00pm until tomorrow at 10:00am. (Clarie, J.)
2/4	Writ of H. C. ad Testificandum, filed.
2/5	JURY TRIAL CONTINUES: 13 Jurors report - 2 Govt. witnesses
	sworn and testified - Deft. exhibits F & G marked for identification -
	Govt. exhibit 12 marked for identification and then made full exhibit.
	Jury excused at 4:07pm - Defendant's Witness sworn and testified -
	Court exhibit 4, filed and sealed - Court adjourned at 4:22pm until
	tomorrow at 10:00am. (Clarie, J.)
2/5	Endorsement entered and filed on Application for Permission To
	Issue Subpoenas, "Approved 2/5/76". (Clarie, J.) m-2/9/76 Two attested
	copies handed US Marshal.
2/6	Jury Trial Continues: - 13 Jurors report - 1 Govt. Witness sworn
	and testified - 1 Govt. Witness previously sworn recalled and testified -
	Defendant's exhibits H & I, marked for Identification - 3 Defendant's
	witnesses sworn and testified - Govt. rests at 2:35pm - Atty. Heiman
	moves for Judgment of Acquittal or Dismissal on all counts - Motion For
	Acquittal or to Dismiss, Denied - Case adjourned at 5:03pm until
	Tuesday at 10:00am. (Clarie, J.)
2/10	JURY TRIAL CONTINUES: (Housand) - 12 Jurors report - Juror #10
	absent due to illness - Juror #10 replaced by Alternate #2 - Supple-
	ment Request to Charge, filed by Defendant - 1 Def. Witness sworn and
	testified - 1 Def. Witness previously sworn recalled and testified -
	Defendant's exhibits J & K, filed - Defendant's exhibits A, D, F, G,
	H & I, admitted as Full Exhibits - 3 Defendant's witnesses sworn and
	testified - Defendant Housand sworn and testified on his own behalf -
	Memorandum of Law, filed by Gov't - Jury instructed on publicity - Case
	adjourned at 4:57pm until tomorrow at 10:00 A.M. (Clarie, J.)
2/11	JURY TRIAL CONTINUED: (Housand) - 12 Jurors report - Queried by
	the Court all answer "No" - Defendant resumes the stand and testified -
	Defendant's exhibits L & M, filed - Gov't exhibit 13, filed - Defendant
	Rests at 4:00 P.M. - Gov't witness sworn and testified - Defendant's
	exhibit N marked for Identification - 1 Govt witness sworn and
	testified - Gov't exhibit 14, filed - 1 Govt. witness sworn and
	testified - Jury instructed on publicity - Case adjourned at 5:04pm
	until tomorrow at 10:00am. (Clarie, J.)
2/12	JURY TRIAL CONTINUES: (Housand) - 12 Jurors report - Queried by
	the Court as to publicity or news media all answer "No" - 1 Govt.
	witness sworn and testified - 1 Govt. witness previously sworn

Continued

USA vs Andrew A. Bucci and John A. Housand

Criminal H-75-40

DATE 1976	PROCEEDINGS
2/12	resumes the stand and testified - Govt. Rests at 10:20 - Defendant Rests at 10:21 am - Defendant's Motion for Judgment of Acquittal on all Four Counts - Denied - Summations Govt. Opens 10:27 - 10:55 - Defendant 11:07 to 11:55 - Govt Rebuttal summation 11:56 to 12:04 - Courts Charge 1:07 to 2:04pm - Jury retires at 2:05 pm - Exceptions to Charge noted by Atty for Defendant - Charge to stand - Jury recalled to Courtroom to have inquiry made as to whether or not any juror can operate a tape machine - Agent Petrella gives instructions on operation of tape machine - Jury retires at 2:21 pm - Jury recalled to Courtroom at 4:57 pm and questioned on whether they wish to sit until 6:00 pm or come back tomorrow - Jury retires at 4:59 pm to take a vote - Forelady Wendrychowicz states they believe they can come to a decision in the next 15 to 20 minutes - Jury returns to Courtroom at 5:26 pm with a Verdict, Mrs. E. Wendrychowicz, forelady - Verdict of Guilty as Charged on all four counts - Jurors advised they may be excused from further service if they desire. - Court adjourned at 5:31 pm. (Clarie, J)
2/17	JOHN A. HOUSAND - Motion of Defendant, John Anthony Housand - Motion For Judgment of Acquittal; Defendant John Anthony Housand Supplemental Motion for Judgment of Acquittal; Defendant John Anthony Housand Motion in Arrest of Judgment, filed.
2/19	Consolidated Response By The United States To The Defendant's Motion For Judgment of Acquittal and Motion In Arrest of Judgment, filed.
2/20	Defendant pro se Supplemental Motion For Judgment of Acquittal, filed.
"	Motion For Leave To Withdraw Appearance, filed by Maxwell Heiman.
2/23	Response of the United States to the Defendant's Supplemental Motion For Judgment of Acquittal and Response of United States to Motions For Judgment of Acquittal and New Trial , filed. (See H. 75-39)
2/26	Reply To, "Response of the United States To The Defendant's Supplemental Motion For Judgment of Acquittal, Filed.
2/6	CJA 20 executed (Templeton, D.C.) appointing Gerald E. Farrell to represent witness.
2/9	Marshal's executed return filed. (Appl. for Permission to Issue Subpoenas)
3/18	Motion for Writ of Habeas Corpus, filed.
3/22	Motion of Defendant, John Anthony Housand To Compel Former Attorney of Defendant to Furnish all Documents, Transcripts, Papers, Letters, Ets. To Defendant for Purpose of "Appeals"; Motion of Defendant, John Anthony Housand, To Compel Government to Transcribe, and Furnish All Trial Testimony, Evidence and Documents, for Purpos of "Appeals" and Motion of Defendant, John Anthony Housand, For Injunctive Releif, filed.
3/22	DISPOSITION: five years imprisonment on count #1, five years on count #4 to run consecutively to sentence imposed on count #1. Five years on counts #2 & #3; sentence on counts #2 and #3 to run concurrently with sentence imposed on Count \$4. Total effective sentence being ten years. (Clarie, J.) All pending motions submitted by either his counsel or pro-se are denied. (Clarie, J.)
3/22	Notice of Appeal, filed. Copies sent to counsel of record.
3/23	Certified copy of Notice of Appeal and Docket Entries mailed to USCA.
3/23	Copy of Notice of Appeal mailed to John A. Housand at Danbury.

Continued on Page 4

DATE	PROCEEDINGS
3/22	Endorsement entered and filed on Supplemental Motion for Judgment of Acquittal, "March 22, 1976. The defendant's Motion (Supplemental Motion) for judgment of acquittal is denied. So Ordered" (Clarie, J.) M. 3-24-76. Copies sent to Attorneys Casey, Heiman, Bucci and the defendant in Danbury.
3/22	Endorsement entered and filed on Motion for Judgment of Acquittal, "March 22, 1976. The defendant's motion for judgment of acquittal is denied. So Ordered." (Clarie, J.) M. 3-24-76. Copies sent to Attorneys Casey, Heiman, Bucci, and the defendant in Danbury.
3/22	Endorsement entered and filed on Motion in Arrest of Judgment, "March 22, 1976. The defendant's motion in arrest of judgment is denied. So Ordered." (Clarie, J.) M. 3-24-76. Copies sent to Attorneys Casey, Heiman, Bucci and the defendant in Danbury.
3/22	Endorsement entered and filed on Supplemental "Motion" for Judgment of Acquittal, "March 22, 1976. Motion for judgment of acquittal is denied. So Ordered." (Clarie, J.) M. 3-24-76. Copies sent to Attorneys' Casey, Heiman, Bucci and the defendant in Danbury.
3/22	Endorsement entered and filed on Motion for Leave to Withdraw Appearance, "March 22, 1976; 11:35 A.M. Motion for leave to withdraw appearance is granted after appeal has been filed this day. So Ordered." (Clarie, J.) M. 3-24-76. Copies sent to Attorneys' Casey, Heiman, Bucci and the defendant in Danbury.
3/22	Endorsement entered and filed on Motion of Defendant, John Anthony Housand, to Compel Former Attorneys' of Defendant to Furnish all Documents, Transcripts, Papers, Letters, etc., to Defendant for purpose of "Appeals", "March 22, 1976" Motion granted as to copies of the documents requested; to be furnished to defendant's counsel as promptly as possible following his appointment. So Ordered." (Clarie, J.) M. 3-24-76 Copies sent to Attorneys' Casey, Heiman, Bucci and the defendant in Danbury.
3/22	Endorsement entered and filed on Motion of Defendant, John Anthony Housand, to Compel Government to Transcribe, and Furnish all Trial Testimony, Evidence and Documents, for Purpose of "Appeals" "3/22/76 Motion granted; material requested to be provided to counsel for the defendant as promptly as possible following his appointment. So Ordered." (Clarie, J.) M. 3-24-76. Copies sent to Attorneys' Casey, Heiman, Bucci, and the defendant in Danbury.
3/22	Endorsement entered and filed on Motion of Defendant, John Anthony Housand, for Injunctive Relief, "3-22-76 Motion denied. So Ordered." (Clarie, J.) M. 3-24-76. Copies sent to Attorney's Casey, Heiman, Bucci, and the defendant in Danbury.
3/24	Judgment and Commitment Order filed. (Clarie, J.) M. 3-24-76 Two attested copies handed U.S. Marshal and attested copy handed US Probation Officer in Hartford.
3/24	For Ruling on Writ of H.C. filed on 3/18/76, see Civil H-76-138. Petition denied without prejudice. (Clarie, J.) m-3/24/76
3/26	Notice of Appeal, filed pro-se. Certified copy sent to USCA with Form A.
3/31	Court Reporter's notes of Proceedings held on Nov. 4, 1975, filed in Hartford. (Sperber, R.)
3/31	Receipt from District of New York on documents mailed on March 23, 1976, filed.

CONTINUED

DATE	PROCEEDINGS
4/8	CJA 20 executed (Clarie, J.) and sent to Chief Judge, Court of Appeals for payment.
4/8	Memorandum Re: CJA Compensation, filed. (Clarie, J.) M.4-9-76.
4/8	Record on Appeal mailed to USCA. Copies of Index and Docket Entries mailed to Attys. Dorsey and Heiman and Mr. Housand.
4/12	Copy of schedule of Hearing from USCA, filed.
4/19	Acknowledge from USCA on Index to Record on Appeal. C/A #76-1156
4/21	CJA 20 executed (Kaufman, J.) and mailed to A.O. for payment.
5/6	CJA 21 executed (Clarie, J.) and mailed to A.O. for payment.
4/12	Copy of Schedule of Hearing from USCA, filed. (duplicate entry)
5/10	Court Reporter's notes and Sound Recording of Proceedings held on March 22, 1976, filed in Hfd. (Sperber, R.)
5/14	CJA 20 executed (Clarie, J.) and mailed to A.O. for payment.
5/19	Court Reporter's transcripts (9 vols.) of proceedings held on: January 28, 1976 January 29, 1976 January 30, 1976 & February 3, 1976 (1 vol.) February 4, 1976 February 5, 1976 February 6, 1976 February 10, 1976 February 11 & 12, 1976 (1 vol.) January 28, 1976, filed in Hartford. (Sperber, R.)

United States District Court
District of Connecticut
FILED AT HARTFORD

3-21-75
Sylvester A. Markowski, Clerk

UNITED STATES DISTRICT COURT

Deputy Clerk

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

V.

ANDREW A. BUCCI and
JOHN ANTHONY HOUSAND

CRIMINAL NO.

H75/40

I N D I C T M E N T

The Grand Jury charges:

COUNT ONE

At all times material to this indictment:

1. On December 12, 1973 through December 18, 1973, JOHN ANTHONY HOUSAND, a defendant herein, testified as a government witness in United States v. David Guillette and Robert Joost, Criminal No. H-524, District of Connecticut. The defendant, JOHN HOUSAND, testified, in part, concerning his knowledge of and participation in a conspiracy to kill Daniel LaPolla, who was scheduled to be a witness against David Guillette and Robert Joost, among others, in a separate criminal indictment.

2. From May 30, 1974 to May 31, 1974, JOHN ANTHONY HOUSAND, the defendant herein, testified in Waterbury, Connecticut against William Marrapese and Nicholas Zinni who were co-defendants in United States v. David Guillette et. al., Criminal No. H-524. In this trial, HOUSAND repeated, under oath, substantially the same testimony he had given previously against David Guillette and Robert Joost with respect to his knowledge of a conspiracy to kill Daniel LaPolla.

3. Both in December of 1973, at the trial of David Guillette and Robert Joost, and in May, 1974 at the trial of William Marrapese and Nicholas Zinni, in Waterbury, Connecticut, JOHN ANTHONY HOUSAND testified, in part, that defendants David Guillette and Robert Joost asked him, on May 4, 1972, to kill Daniel LaPolla, and that on May 8, 1972 he agreed to kill Daniel LaPolla in the presence of David Guillette, Robert

9A

Joost, Nicholas Zinni, William Marrapese, and ANDREW A. BUCCI, a defendant herein. At both trials, JOHN HOUSAND swore under oath that his testimony was truthful and accurate to the best of his recollection, or words to that effect.

4. It was material to the two petit juries which returned verdicts against David Guillette, Robert Joost, William Marrapese and Nicholas Zinni to determine what knowledge and participation in, if any, JOHN HOUSAND had concerning a conspiracy to kill Daniel LaPolla, and it was also material, in this regard, for each petit jury to know what statements, if any, government prosecutors and agents made to JOHN HOUSAND concerning the necessity that he testify truthfully and accurately to the best of his ability. *See transcript*

5. On November 13, 1974, in the District of Connecticut, JOHN ANTHONY HOUSAND and ANDREW A. BUCCI appeared before the United States Attorney for the District of Connecticut, a duly constituted officer of the United States Department of Justice, charged with the duty of investigating and prosecuting all crimes against the United States in the District of Connecticut, at which time JOHN HOUSAND indicated that his testimony against David Guillette, Robert Joost, William Marrapese, and Nicholas Zinni on the above described occasions was false in several material respects, particularly with respect to his knowledge of any conspiracy to kill Daniel LaPolla. *Warning*

6. JOHN HOUSAND indicated to the United States Attorney on November 13, 1974, and to the federal general jury on December 6, 1974 that prosecutors and investigative agents of the United States and wilfully and knowingly induced and procured false testimony by him as to a conspiracy to kill Daniel LaPolla. 8-11
for

7. On December 6, 1974, JOHN HOUSAND appeared before a federal grand jury in Hartford, Connecticut and testified, under oath, that his testimony against William Marrapese, Nicholas Zinni, Robert Joost, and David Guillette in Hartford, Connecticut and Waterbury, Connecticut was false in several material respects, particularly with respect to his

10A

CONFIDENTIAL U

knowledge of a conspiracy to kill Daniel LaPolla.

8. The grand jury further alleges that from on or about July 19, 1974 up to and including the date of this indictment, ANDREW A. BUCCI, and JOHN HOUSAND did combine, conspire, confederate and agree among themselves and with other persons, whose identities are known and unknown to the grand jury, to influence, obstruct and impede the due administration of Justice in violation of Section 1503, Title 18, United States Code, and, further, did conspire, confederate, combine and agree with others known and unknown to the grand jury to induce JOHN HOUSAND to give false information to officials of the United States Department of Justice, including the Honorable Peter C. Dorsey, United States Attorney for the District of Connecticut, in violation of Section 1001, Title 18, United States Code.

known to the grand jury
conspiracy to kill

see

40-c

9. It was a part of said conspiracy that JOHN HOUSAND would inform authorities of the United States Department of Justice that he had falsely accused William Marrapese, Nicholas Zinni, David Guillette, and Robert Joost of a conspiracy to kill Daniel LaPolla, when in fact and in truth, JOHN HOUSAND knew and believed that his testimony at trial against William Marrapese, Nicholas Zinni, David Guillette, and Robert Joost was truthful and accurate, to the best of his recollection.

10. It was also a part of said conspiracy and in furtherance thereof that JOHN A. HOUSAND would falsely accuse agents and attorneys of the federal government with wilfully suborning perjury by him at the above mentioned trials, when in truth and fact no agent or attorney of the federal government at any time requested, commanded or induced JOHN HOUSAND to give any testimony known to be false either to him or to said agents or attorneys.

11. It was further an object of said conspiracy that JOHN HOUSAND would provide information to federal authorities known to be false by ANDREW A. BUCCI.

12. It was a further object of said conspiracy that JOHN ANTHONY HOUSAND would provide false information to federal authorities which would provide a factual basis for David Guillette, Robert Joost, William Marrapese,

11A

and Nicholas Zinni to request a new trial, based on his purported recantation, and to secure a reversal of their convictions of conspiracy to kill Daniel LaPolla, which had been secured, in part, upon the testimony of JOHN HOUSAND.

13. It was further a part of the aforementioned conspiracy that JOHN HOUSAND would falsely retract testimony he gave at the two above-described trials which related to the presence of ANDREW A. BUCCI at a meeting on May 8, 1972, in Cranston, Rhode Island, at which a conspiracy to kill Daniel LaPolla was discussed, and, thus, falsely retract sworn testimony which exposed ANDREW A. BUCCI to possible future criminal prosecutions.

14. Pursuant to said conspiracy and for the purpose of accomplishing the objectives thereof, the said defendants did commit, among others, the following overt acts:

- 1) On or about July 19, 1974, Shirley Freeman Turner placed a telephone call to Special Attorney, Paul E. Coffey;
- 2) On or about September 14, 1974, ANDREW A. BUCCI traveled to Atlanta, Georgia and thereafter spoke to William Marrapese;

*Unindicted
coconspirator*

- 3) On or about November 13, 1974, JOHN HOUSAND and ANDREW A. BUCCI appeared in the office of the United States Attorney in New Haven, Connecticut;
- 4) On or about December 6, 1974, JOHN HOUSAND testified before a federal grand jury in Hartford, Connecticut.

All in violation of Section 371, Title 18, United States Code. *je*

COUNT TWO

1. Paragraphs numbered 1 through and including 7 of Count I are realleged and incorporated herein by reference as if fully set forth herein.
2. On or about November 11, 1974, JOHN ANTHONY HOUSAND appeared at the office of Peter C. Dorsey, United States Attorney for the District

12A

of Connecticut, and stated that the testimony he had given as a government witness in two separate trials of the case of United States of America v. David Guillette, et. al., Criminal No. H-524, was false in part and such part as was false had been procured by agents and representatives of the United States. A federal grand jury was subsequently empanelled in Hartford, Connecticut, District of Connecticut, to determine the truth and veracity of these allegations and the veracity of JOHN ANTHONY HOUSAND's prior trial testimony.

3. On the 6th day of December, 1974, in the District of Connecticut, JOHN ANTHONY HOUSAND, being then and there a witness, under oath, before the United States Grand Jury, was asked the following questions, and gave the following answers:

- Q. During the trial, who else actually did you tell or in whose presence did you ever say that your testimony was false?
- A. Coffey, Petrella, Johnson, Fowler, and Waterson
- Q. How about Marshal Paul Connolly?
- A. He overheard the conversation.

4. It is alleged that the said testimony of JOHN ANTHONY HOUSAND, as he then and there well knew was false in that he was not suborned and induced to give false testimony at the said trials, and he never prior to November 13, 1974, stated to any employee of the United States that such trial testimony in Waterbury or Hartford, Connecticut was false. All in violation of Title 18, United States Code, Section 1623.

COUNT THREE

1. Paragraphs numbered 1 through and including 7 of Count I are realleged and incorporated herein by reference as if fully set forth herein.

2. That on or about the 13th day of December, 1973, JOHN ANTHONY HOUSAND appeared as a witness for the government in the case of United States v. David Guillette and Robert Joost, Criminal No. H-524, before the United States District Court in the District of Connecticut, and, while under oath, did give testimony relating to an alleged conspiracy between

13A

David Guillette, Robert Joost, William Marrapese, Nicholas Zinni, ANDREW A. BUCCI, and himself to kill a federal witness, Daniel LaPolla.

3. That at that time and place, JOHN ANTHONY HOUSAND was asked the following questions and gave the following answers, relating to the conspiracy to kill LaPolla:

Q. How many people were there in the booth, Mr. Housand?

A. Mr. Joost, Mr. Guillette and myself.

Q. That's it?

A. That's it.

Q. And the next response which was made, do you recall whether it was made by either Mr. Guillette or Mr. Joost?

A. No, sir, I don't recall which one made the remark.

Q. Do you remember what the remark was? Just yes or no, sir, do you remember what the remark was?

A. I remember what the remark was, yes.

Q. All right. Now, would you please tell us what that remark was?

A. They; one of the other, stated that I would be the most logical choice for this kind of assignment because, one, I was least known in the New England area; two, I could fit into just about any given environment; three, I was quite mobile, once the assignment was cared for I could split and leave Rhode Island.

Q. All right. Was there any discussion of what the terms of this assignment were to be?

A. I was asked how much --

* * *

Q. Do you recall who asked you?

A. No, sir, I don't recall.

Q. Do you recall what you were asked?

A. I was asked, yes, sir. I do recall that.

14A

Q. All right. And would you tell us what you were asked?

A. I was asked how much I would charge them to kill Daniel LaPolla.

Q. All right. Do you recall what your response was?

A. I says, how does five big ones sound to you.

Q. All right. And how much money is five, or was five big ones?

A. Five thousand dollars.

Q. And was there a response to your request for five big ones?

A. They said that that seemed --

* * *

Q. Mr. Housand, the requirement is that, first of all, you tell us whether you recall the response and then whether or not you recall which individual made the response.

A. Yes, sir, I do recall the response.

Q. Do you recall if there was a response to your statement that you would kill Daniel LaPolla for \$5,000?

A. Yes, sir.

Q. All right, Do you recall what that response was?

A. Mr. Joost and Mr. Guillette indicated that that seemed like it was a fair price.

MR. SANTOS: They both said it?

BY MR. COFFEY:

Q. Mr. Housand, just so that we are clear on this, when I ask you if you recall the response, I am asking yes or no. All right?

A. Okay.

Q. Do you recall what the response was to your statement that you would kill Daniel LaPolla for \$5,000?

15A

A. Yes.

Q. Now, do you recall which individual made that response?

A. Both individuals indicated.

Q. And what did they indicate?

A. That it seemed like a fair price.

Q. And where were the girls at this time?

A. They were still doing whatever girls do in the ladies room.

Q. And was there any further conversation concerning this contract, at this time, in the booth?

A. They --

Q. Well, was there any further conversation?

A. Yes, sir.

Q. And do you recall the next response, do you recall the next thing that was said in that conversatio?

A. That the response was --

- Q. And do you recall who made the response?
- A. Mr. Joost or Mr. Guillette, I don't recall which one, either, which one made the response.
- Q. And what was it?
- A. Was that they would have to check this out with Nick and Billy.
- Q. And whom did you understand to be Nick and Billy?
- A. Nick Zinni and Billy Marrapese.
- Q. And was there any further remarks by you or by Mr. Joost and Mr. Guillette following this, in the booth?
- A. No.

* * *

- Q. And on the 8th of May, when you went into that area, with whom were you -- who were you with?
- A. Mr. Guillette and I entered the room together.

Q. And when you entered the room, was there anyone inside?

A. Yes, sir.

Q. Who?

A. Mr. Nicholas Zinni, Mr. Billy Marrapese, Mr. Bobby Joost, and Mr. Andrew Bucci.

Q. All right. Was there -- I'm asking you just for yes or no answer now, if you recall -- was there a conversation between you and the other persons in the room when you entered?

A. Between myself, personally?

Q. Between all the individuals in the room.

A. There was a conversation between all the individuals, yes.

Q. And do you recall which individual in the room made the first comment with respect to your presence there that morning?

A. If I recall correctly, Mr. Marrapese says let's get down to business.

- Q. All right. And was there any response - yes or no now - was there any response by anyone else in the room at that time to that comment?
- A. Yes, sir.
- Q. Can you recall who made that response?
- A. It was either Mr. Joost or Mr. Guillette. p
- Q. All right. Are you sure it was either one of those two parties?
- A. It was one of those individuals.
- Q. All right. And what was said?
- A. It was said that as we have, you know, previously discussed with you, John has agreed to take care of this business for us, and he has agreed to take care of it for five big ones.

Q. Okay. Was there any response by any of the other persons in the room to this comment?

A. Mr. Marrapese, I believe, stated that that sounded fine with him, especially since it would be split four ways.

Q. And was there any response by any of the other individuals?

A. Mr. Zinni said it seemed --it sounded all right to him.

Q. And what next was -- well, do you recall if any other comments subsequent to Mr. Zinni saying it seemed okay to him.

A. Mr. Joost --

Q. What did Mr. Joost say?

A. Mr. Joost looked at Mr. Bucci and says, how's that sound to you, Andy?

Q. And was there any response to that remark?

A. Yes, sir.

Q. By whom?

- A. Mr. Bucci.
- Q. What did Mr. Bucci say?
- A. Mr. Bucci says, well, it's like I told you before, [^]this LaPolla is the only man that the government has as a witness against you.
- Q. And what next -- do you recall what individuals made a comment following that remark?
- A. If I recall correctly, Mr. Marrapese, he stated - and this is the substance of his words --
- Q. What did he say?
- A. He says we've got to get rid of this guy. He says with all the troubles that I have currently going with the Government, and he says this sure would be just a crowning blow, so this guy has got to go.

18A

- Q. And was there any reaction or response by any of the other individuals to that remark?
- A. No sir.
- Q. And what further conversation was there after Mr. Marrape's remark, if you recall?
- A. I believe Mr. Joost or Mr. Guillette asked Attorney Bucci if he had had any success in locating this individual.
- Q. And was there any response to that?
- A. Mr. Bucci says that -- stated that he was still, you know, attempting to locate the individual through his official contacts, but he also suggested that probably we would have better success or much better success in locating him utilizing our contacts because we could, say, go into areas where he could not go into.
- Q. Was there any further conversation after this remark by Mr. Bucci?

A. I don't recall who made the remark, but the remark was made, well, okay, the only thing we have to do now, we locate him, we let John know where he's at and then John will go and whack him in the head.

Q. Now, was that the end of the conversation?

A. Yes, sir. To the best of my knowledge, yes.

Q. How long did this meeting take place, would you estimate?

A. I would say fifteen to twenty minutes.

3. That on or about the 6th day of December, 1974 in the District of Connecticut, JOHN ANTHONY HOUSAND, while under oath, did testify to a federal grand jury that testimony he had given in the case of United States v. Guillette and Joost was false, that no conspiracy to kill Daniel LaPolla existed, and that his prior testimony was corruptly procured by agents and representatives of the United States.

19A

4. That at that time and place, JOHN ANTHONY HOUSAND was asked the following questions and gave the following answers:

Q. Mr. Housand, I understand that you were a witness at two trials involving a charge of conspiracy to violate the civil rights to Daniel LaPolla by causing his death; the defendants being David Guillette, Robert Joost, William Marrapese, and Nicholas Zinni, is that correct?

A. That is correct.

Q. Was the testimony that you gave at those trials truthful or untruthful?

A. Untruthful.

* * *

BY A JUROR:

Q. You are apparently -- in fact, you have testified that Andrew A. Bucci is your friend, and apparently he has done quite a bit for you that would lead you to think he was, or presumably you do?

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A. I will say this: That what I did to that man in reality, he shouldn't feel friendly toward me, but he is -- he was very well pleased I chose to come back up here and tell the truth, because Andy Bucci and none of those people, to my knowledge, was ever involved in the conspiracy to kill Daniel LaPolla.

5. It is alleged that the testimony given by JOHN ANTHONY HOUSAND in paragraph 2 above, was material to the Court and jury in determining the guilt or innocence of the defendants.

6. It is further alleged that the testimony given by JOHN ANTHONY HOUSAND in paragraph 4, above, was material to the grand jury, which was investigating the facts and circumstances surrounding his recantation of his trial testimony, to determine the truth and veracity of his allegations

of improprieties by the agents and representatives of the United States relating to the case of United States v. Guillette and Joost.

7. It is further alleged that the declarations given under oath by JOHN ANTHONY HOUSAND in the trial of Robert Joost and David Guillette recited in paragraph two above and the declarations given under oath by JOHN ANTHONY HOUSAND before the federal grand jury recited in paragraph four above are so irreconcilably in conflict and inconsistent that one of the declarations is necessarily false. All in violation of Title 18, United States Code, Section 1623.

COUNT FOUR

1. Paragraphs numbered 1 through and including 7 of Count I are realleged and incorporated, herein by reference as if fully set forth herein.

2. On or about the 18th day of December, 1973, JOHN ANTHONY HOUSAND appeared as a witness for the government in the case of United States v. David Guillette and Robert Joost, Criminal No. H-524, pending before the United States District Court in the District of Connecticut and, while under oath, did give testimony relating to an alleged conspiracy between David Guillette, Robert Joost, William Marrapese, Nicholas Zinni, and himself to kill one Daniel LaPolla.

3. That at that time and place, JOHN ANTHONY HOUSAND having undergone cross-examination in which the veracity of his testimony and the conditions under which he was testifying for the government had been brought into question, was, upon redirect examination, asked the following questions and gave the following answers:

Q. Mr. Housand, in return for the considerations which you were given by the government, and which you are to be given by the government for your testimony, was anything indicated to you, as to what you were to do in return for the government's consideration, for your testimony?

A. Yes, sir.

Q. Tell the jury what was said to you in that regard, prior to your testifying at trial.

21A

A. I was told simply this: That if I came up here and related the events as they took place, truthfully -- whether they helped the government or hurt the government, that they would go to the North Carolina authorities down there and appear in my behalf.

That also if it was found that I was lying, that they would prosecute me on a charge of perjury.

Q. Who told you that?

A. You did.

Q. And did anyone indicate to you that if your testimony helped the government in this particular case, in the proof of the elements, and was found to be false, that you would be prosecuted anyway?

* * *

A. This was stated, yes, sir, by you.

* * *

Q. And the consideration which the government has given to you, and is to give to you with respect to your Parole Board, what are you to do in return for those considerations by the government here today?

A. It is to relate the incidents as best as I can recall them today.

Q. Were you ever instructed by anyone to simply give testimony which helps one side?

A. I was told by you on many occasions, Mr. Coffey, just to tell the truth, as the thing happened. Nothing more, nothing less.

3. That on or about the 6th day of December, 1974 in the District of Connecticut, JOHN ANTHONY HOUSAND, while under oath, did testify to a federal grand jury that the testimony that he had given in the case of

22A

United States v. Guillette and Joost was false and was corruptly procured by agents and representatives of the United States.

4. That at that time and place, JOHN ANTHONY HOUSAND was asked the following questions and gave the following answers:

Q. Did you ever talk about it with Mr. Coffey?

A. I have had conversations with Coffey about it, yes.

Q. Did you tell him that you really hated doing it,
you didn't like giving false testimony?

A. First meeting I ever had with Coffey I expressed that concern.

5. It is alleged that the testimony given by JOHN ANTHONY HOUSAND in paragraph two, above, was material to the Court and jury in determining the credibility of JOHN ANTHONY HOUSAND, the precise nature of the relationship between the government and himself, and the conditions and circumstances under which he was testifying as a witness for the United States, and, as a final result, the guilt or innocence of the defendants.

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of materiality

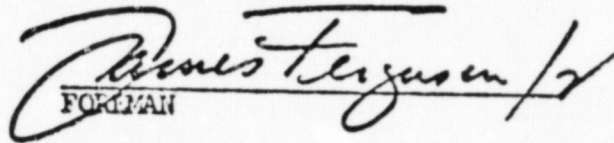
6. It further alleged that the testimony given by JOHN ANTHONY HOUSAND in paragraph four, above, was material to the grand jury, which was investigating the facts and circumstances surrounding his recantation of his trial testimony, to determine the truth and veracity of his allegations of improprieties on behalf of agents and representatives of the United States relating to the case of United States v. David Guillette et. al.

7. It is further alleged that the declaration given under oath by JOHN ANTHONY HOUSAND in the trial of Robert Joost and David Guillette recited in paragraph two, above, and the declarations given under oath by JOHN ANTHONY HOUSAND before the federal grand jury recited in paragraph four, above, are so irreconcilably in conflict and inconsistent that one of the declarations is necessarily false.

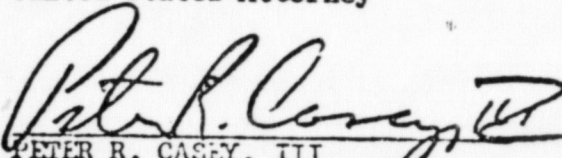
All in violation of Title 18, United States Code, Section 1623.

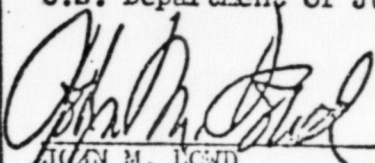
23A

A TRUE BILL


FOREMAN

PETER C. DORSEY
PETER C. DORSEY
United States Attorney


PETER R. CASEY, III
Special Attorney
U.S. Department of Justice


JOHN M. DOWD
Special Attorney
U.S. Department of Justice

(In the presence of the jury):

THE COURT: Ladies and gentlemen of the jury, I will preface this jury charge by the preliminary observation that while the indictment is lengthy, and you will have it with you in the jury room, its contents, in reality, are quite simple to understand.

The first count alleges a conspiracy to obstruct justice and to give false information to a federal official; and the remaining three counts allege perjury either to a United States Grand Jury, or to the Court.

When you consider these charges in the jury room during your deliberations, I would suggest that you use this indictment as a basis to systematically take up and consider each of the four alleged charges. It will help you not to get sidetracked into a discussion of inconsequential issues. That is not any preclusion against your discussing anything you want about the matter, but at least using the indictment you will do it logically and orderly, and take up the matters which are before you.

So that you may follow the jury charge more easily, I would point out that the first part of

1 this charge will be very general in nature. The 1546
2 Court will then take up the specific charges in
3 more detail.

4 Now that you have heard the evidence and the
5 arguments of counsel, the time has come to instruct
6 you as to the law governing the case. Although, you,
7 as jurors, are the sole judges of the facts, you
8 are duty bound to follow the law as stated in the
9 instructions of the Court, and to apply the law
10 so given to the facts, as you find them, from the
11 evidence which is before you.

12 You are not to single out one instruction of
13 the Court alone as stating the law, but you must
14 consider the instructions as a whole. Neither are
15 you to be concerned with the wisdom of any rule of
16 law. Regardless of any opinion you may have as to
17 what the law ought to be, it would be a violation
18 of your sworn duty to base a verdict upon any
19 other view of the law than that given in the
20 instructions of the Court.

21 The indictment, the original of which you
22 will have with you in the jury room, is but a
23 formal method of accusing the defendant of a crime.
24 It is not evidence of any kind against the accused
25 in this case, and does not create any presumption

1 nor permit any inference of guilt. 1547

2 The law presumes a defendant to be innocent
3 of crime. Thus, at the moment a defendant begins
4 the trial, he stands before you free from any
5 bias or prejudice or burden arising from his
6 position as the accused. So far as you are
7 concerned, he then was innocent, and he continues
8 innocent throughout the trial, and during the
9 deliberations of the jury, and is overcome when,
10 and only when, his guilt is established beyond a
11 reasonable doubt.

12 This presumption also requires that if a piece
13 of evidence offered is capable of two reasonable
14 constructions, one of which is consistent with
15 innocence, it must be given that construction.
16 Whether the burden of proof resting upon the
17 Government is sustained depends not on the number
18 of witnesses or the quantity of the testimony, but
19 upon the nature and quality of that testimony.

20 In order to convict one accused of crime, the
21 jury must be satisfied beyond a reasonable doubt
22 of the defendant's guilt. A mere preponderance
23 of the evidence is not sufficient. And if a
24 reasonable doubt does exist in the minds of the
25 jury, they must acquit the defendant. If the

1 evidence justifies, in your judgment, the conclusion¹⁵⁴⁸
2 that the accused is guilty, so as to exclude
3 every other reasonable doubt as to the guilt of the
4 defendant, you will find him guilty.

5 The term "reasonable doubt" means just what
6 the term implies. I do not mean to be understood
7 as stating that the defendant must be found guilty
8 beyond all doubt whatever, but beyond a doubt
9 founded in reason and arising from the evidence in
10 this case. Reasonable doubt is a doubt arising
11 from the evidence or from a lack of evidence, after
12 consideration of all the evidence. It is not a
13 vague, speculative, imaginary something, but just
14 such a doubt as would cause reasonable men and
15 women to hesitate to act upon it in matters of
16 importance to themselves.

17 Reasonable doubt means such doubt as will
18 leave the juror's mind, after a candid and impartial
19 consideration of all the evidence, so undecided
20 that he or she is unable to say that they have an
21 abiding conviction or assurance of the defendant's
22 guilt. The law does not require a person to be
23 proven guilty beyond a mathematical certainty, but
24 only a moral certainty.

25 If after you have carefully considered and

1549

1 weighed all of the evidence in this case, in the
2 light of the law as the Court will have given it
3 to you, you have a firm, full and abiding
4 conviction, to a moral certainty, that the
5 defendant is guilty as charged in the indictment,
6 then this guilt has been established beyond a
7 reasonable doubt. But, if you do not have a full,
8 firm and abiding conviction, then guilt has not
9 been established beyond a reasonable doubt, and
10 you would then acquit the defendant.

11 In order to convict one accused of crime,
12 all of the elements of the crime must be proven
13 beyond a reasonable doubt. Therefore, unless the
14 jury concludes that all the material elements of
15 said crime have been committed by the defendant,
16 and said elements have been proved beyond a
17 reasonable doubt, the jury must bring in a verdict
18 of not guilty.

19 In the remainder of what I have to say to you
20 in this jury charge, I shall use the word "prove"
21 or "proved" with reference to the burden which
22 rests upon the Government, and I shall speak to you
23 of your finding various facts or elements in the
24 case. But, throughout, you will understand when I
25 say the Government has to prove a fact to you, I

1 mean that it has to prove to you that fact with this ¹⁵⁵⁰
2 degree of proof that I have just defined, that is,
3 beyond a reasonable doubt, even though I may not
4 repeat the exact words. When I say you must find
5 a fact, I mean you must find it proven beyond a
6 reasonable doubt, even though I simply use the word
7 "find".

8 Now, there are two types of evidence from
9 which a jury may properly find a defendant guilty
10 of an offense. One is direct evidence, such as the
11 testimony of an eyewitness -- seeing the offense
12 happen.

13 The other is circumstantial evidence, the
14 proof of a chain of circumstances pointing to the
15 commission of the offense. As general rule, the
16 law makes no distinction between direct and
17 circumstantial evidence, but simply requires that,
18 before convicting a defendant, the jury must be
19 satisfied beyond a reasonable doubt from all of the
20 evidence in the case.

21 Now, in regard to terminology.

22 An inference is a deduction or conclusion
23 which reason and common sense lead the jury to
24 draw, from facts which have been proved.

25 In arriving at your decision, you, the jury,

1551
1 may draw inferences from those facts which are
2 either admitted or those facts which you find to
3 have been proven beyond a reasonable doubt. However,
4 no inference is reliable which is drawn from facts
5 which are themselves uncertain. You, the jury,
6 should not indulge in speculation or conjecture.

7 Now, the word "presumption". A presumption
8 is a conclusion which the law requires the jury to
9 make from particular facts, in the absence of
10 convincing evidence to the contrary. A presumption
11 continues in effect until overcome or outweighed
12 by evidence to the contrary. But, unless so
13 outweighed, the jury are bound to find in
14 accordance with the presumption. This defendant
15 is presumed innocent unless you find beyond a
16 reasonable doubt that he is guilty of the offense
17 or offenses with which he is charged.

18 You will notice on the indictment, which
19 you will have with you in the jury room, that the
20 name of another person, Andrew Bucci, in addition
21 to the named defendant, John A. Housand, appears
22 thereon. For the purposes of this trial you will
23 concern yourself only with the charges against the
24 defendant, John Housand. He is the only person
25 being tried at this time. And you should not

1 speculate or draw any inference whatsoever 1552
2 concerning the disposition of the case of any
3 other defendant, named or unnamed herein.

4 The indictment against this defendant
5 contains four separate counts. Each count is a
6 separate and distinct cause of action. Each count
7 embodies or contains allegations which allege a
8 separate and distinct claim under the statute.

9 The mere fact that you may find the defendant
10 guilty or not guilty on any one count does not
11 necessarily affect his guilt or innocence on any
12 other count. The commission of the substantive
13 offense and the conspiracy to commit that offense
14 are separate and distinct offenses. Thus, even if
15 you were to find, for example, if you were to find
16 the defendant, Housand, guilty of the substantive
17 offense of perjury, you could, nevertheless, find
18 him not guilty of the offense of conspiracy to
19 commit perjury, or you could find him guilty of the
20 offense of conspiracy to commit perjury, and
21 nevertheless find him not guilty of the substantive
22 offense of perjury.

23 In other words, each count is separate and
24 distinct, in and of itself. That is the important
25 point to keep in mind.

32A

1 Now, Count 1 of the indictment charges that at 15513
2 the defendant, John Anthony Housand, and Andrew
3 Bucci, and others known and unknown to the grand
4 jury, violated the federal conspiracy statute,
5 Title 18, U.S. Code, Section 371, which provides
6 in relevant part, and I quote:

7 "If two or more persons conspire to commit
8 any offense against the United States, and one or
9 more of such persons do any act to effect the
10 object of such conspiracy, each shall be punished
11 as the law provides."

12 The object of such a conspiracy must be a
13 crime. What was the object of this alleged
14 conspiracy? What criminal statutes and unlawful
15 acts are alleged to have been committed?

16 Now, in the indictment, you will have it with
17 you to read -- I can see no point, because of its
18 length, in reading all of it to you at this time,
19 because in summary, and in simplicity it can be
20 summarized and fairly and effectively covered by
21 reference to what is charged, without reading all
22 of the specific factual allegations.

23 Specifically, the defendant and his alleged
24 co-conspirators are accused of having conspired to
25 violate two federal laws, Title 18, U.S. Code,

1554
1 Section 1503, which makes it a crime to influence,
2 obstruct and impede the due administration of
3 justice, and Title 18, U.S. Code, Section 1001,
4 which makes it a crime, in any matter within the
5 jurisdiction of any department or agency of the
6 United States, to knowingly and willfully give
7 false information.

8 The obstruction of justice statute, Title 18,
9 Section 1503 of the United States Code, provides
10 in pertinent part:

11 "Whoever corruptly endeavors to influence,
12 intimidate or impede any witness, in any court of
13 the United States, or corruptly influences,
14 obstructs, or impedes, or endeavors to influence,
15 obstruct or impede the due administration of
16 justice shall be guilty of a crime against the
17 United States."

18 The second statute which prohibits the giving
19 of false information to officials of the United
20 States Department of Justice, including the United
21 States Attorney, comes under Title 18, Section 1001,
22 and provides in pertinent part, and I quote the
23 relevant part:

24 "Whoever, in any matter within the jurisdiction
25 of any department or agency of the United States,

the plan or scheme, and must be knowingly done in
1 knowingly and willfully falsifies, conceals, or 1555
2 covers up any trick, scheme, or device, a material
3 fact, or makes any false, fictitious or fraudulent
4 statements or representations, shall be guilty of
5 a crime against the United States."

6 There are four essential elements required to
7 be proved in order to establish the offense of
8 conspiracy, as charged in the first count of the
9 indictment, against the defendant, John Housand.

10 First, that the conspiracy described was
11 formed and existing at or about the time alleged in
12 the indictment.

13 Second, that it was the purpose of the
14 conspiracy to influence, obstruct and impede the
15 due administration of justice, in violation of
16 Title 18, U.S. Code, Section 1503, and to give
17 false information to officials of the United States
18 Department of Justice, including the United
19 States Attorney, Peter Dorsey, in violation of
20 Title 18, United States Code, Section 1001.

21 Third, that the accused, John A. Housand,
22 knowingly and willfully became a member of, and
23 willfully participated in the conspiracy at some
24 point of time within the conspiratorial period as
25 alleged in the indictment, and knowingly and

(No omissions. Transcript continues on

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36A

of grand jury. It shall be a defense to an
1 willfully committed an act in furtherance of some¹⁵⁵⁷
2 object or purpose of the conspiracy as charged.

3 And, fourth, that during the existence of the
4 conspiracy at least one of the overt acts, as set
5 forth in the indictment, was committed by one or
6 more members of the conspiracy, in furtherance of
7 the objectives thereof.

8 If you find from the evidence, beyond a
9 reasonable doubt, that these four elements have
10 been established, then proof of the conspiracy
11 charged in the indictment is complete. Each
12 element will be explained to you in more detail.

13 Your common sense and experience will tell you
14 that when people, in fact, undertake to enter into
15 a criminal conspiracy, much is left to unexpressed
16 understanding. Conspirators do not usually reduce
17 their conspiratorial agreements to writing, nor do
18 they publicly broadcast their plans. From its
19 very nature, a conspiracy is almost invariably
20 secret in its origin, and connected in its
21 execution.

22 It is sufficient if two or more persons, in
23 any manner, through any contrivance, impliedly or
24 tacitly, come to a common understanding to violate
25 the law. Express language or specific words are

not required to indicate assent or attachment to a ¹⁵⁵⁸
conspiracy.

In determining whether there has been an unlawful agreement, you may judge the acts and conduct of the defendant, John Housand, and the alleged co-conspirators, which are alleged to have been done to carry out an apparent criminal purpose. The adage "actions speak louder than words" is applicable. Usually the only evidence available is that of disconnected acts, which, however, when taken together in connection with each other, show a conspiracy to secure a particular result as satisfactorily and conclusively as more direct proof.

Now, what is meant by the term "conspiracy", when applied to violate these two federal laws?

A conspiracy is a combination of two or more persons, by concerted action, to accomplish some unlawful purpose, or to accomplish some lawful purpose by unlawful means. So a conspiracy is a kind of partnership in criminal purposes, in which each member becomes the agent of every other member. The gist of the offense is a combination or agreement to disobey or disregard the law.

Mere similarity of conduct among various

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persons, and the fact that they may have associated with each other, and may have assembled together and discussed common aims and interests, does not necessarily establish proof of the existence of a conspiracy.

However, the evidence in the case need not show that the members entered into any express or formal agreement, or that they directly, by words spoken, or in writing, stated between themselves what their object or purpose was to be, or the details thereof, or the means by which the object or purpose was to be accomplished.

What the evidence in the case must show beyond a reasonable doubt, in order to establish the proof that a conspiracy existed, is that the members in some way or manner, or through some contrivance, positively or tacitly came to a mutual understanding, to try to accomplish a common and unlawful plan.

The evidence in the case need not establish that all the means or methods set forth in the indictment were agreed upon to carry out the alleged conspiracy; nor that all means or methods, which were agreed upon, were actually used or put into operation; nor that all of the persons charged

39A

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1 to have been members of the alleged conspiracy
2 were such. What the evidence in the case must
3 establish, beyond a reasonable doubt, is that the
4 alleged conspiracy was knowingly formed, and that
5 one or more of the means or methods described in
6 the indictment were agreed upon to be used, in an
7 effort to effect or accomplish some object or
8 purpose of the conspiracy, as charged in the
9 indictment, and that two or more persons, two or
10 more persons, including one or more -- the accused --
11 were knowingly members of the conspiracy, as
12 charged in the indictment.

13 I'll read that last paragraph, so that there
14 will be no confusion: That two or more persons,
15 including the accused, were knowingly members of
16 the conspiracy, as charged in the indictment.

17 One may become a member of a conspiracy
18 without full knowledge of all the details of the
19 conspiracy. On the other hand, a person who has
20 no knowledge of a conspiracy, but happens to act
21 in a way which furthers some object or purpose of
22 the conspiracy, does not, thereby, become a
23 conspirator.

24 Before the jury may find the defendant, John
25 Housand, or any other person, has become a member

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1 of a conspiracy, the evidence in the case must show¹⁵⁶
2 beyond a reasonable doubt that the conspiracy was
3 knowingly formed, and the second element, that the
4 defendant, or other person who is claimed to have
5 become a member, knowingly and willfully
6 participated in the unlawful plan, with the
7 intent to advance or further some object or purpose
8 of that conspiracy.

9 To act or participate willfully means to act
10 or participate voluntarily and intentionally, and
11 with specific intent to do something which the law
12 forbids, or with specific intent to fail to do
13 something which the law requires to be done; that
14 is to say, to act or participate with the bad
15 purpose either to disobey or to disregard the law.

16 So if the defendant, or any other person, with
17 understanding of the unlawful character of a plan,
18 knowingly encourages, advises or assists, for the
19 purpose of furthering the undertaking or scheme,
20 he thereby becomes a willful participant -- a
21 conspirator.

22 Generally, the only evidence of a conspiracy
23 available is that of the disconnected acts on the
24 part of the alleged conspirators. These acts,
25 however, when taken together and in connection with

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each other may show a conspiracy to secure a particular result, as clearly as would more direct proof.

One who willfully joins an existing conspiracy is charged with the same responsibility, as if he had been one of the originators or instigators of the conspiracy.

In determining whether a conspiracy existed, the jury should consider the actions and declarations of all of the alleged participants. However, in determining whether the defendant, Housand, was a member of the conspiracy, if any, the jury should consider only his acts and statements. He cannot be bound by the acts or declarations of other participants until it is established that a conspiracy existed, and that he was one of its members.

Whenever it appears beyond a reasonable doubt from the evidence in the case that a conspiracy existed, and that the defendant, Housand, was one of the members, then the statements thereafter knowingly made, and the acts thereafter knowingly done, by any person likewise found to be a member, may be considered by the jury as evidence in the case as to the defendant found to have been a

42A

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member, even though the statements and acts may
have occurred in the absence and without the
knowledge of the defendant, provided such state-
ments and acts were knowingly made and done during
the continuance of such conspiracy, and in
furtherance of some object or purpose of the
conspiracy.

Otherwise, any admission or incriminatory
statement made, or act done outside of court, by
one person, may not be considered as evidence
against any person who was not present and did not
hear the statement made, or see the act done.

Therefore, statements of any conspirator,
which are not in furtherance of the conspiracy,
or made before its existence, or after its
termination, may be considered as evidence only
against the person making them.

In your consideration of the evidence in the
case, as to the offense of conspiracy charged, the
first element of the crime for you to determine is
whether or not the conspiracy existed, as alleged
in the indictment. If you conclude that the
conspiracy did exist, to violate the law, by
obstructing justice or the giving of false
testimony to a federal official, as alleged, you

43A

1 should next determine whether or not the accused
2 willfully became a member of the conspiracy,
3 willfully and knowingly.

4 If it appears, beyond a reasonable doubt,
5 from the evidence in the case that the conspiracy
6 alleged in the indictment was willfully formed,
7 and that the defendant willfully became a member
8 of the conspiracy either at its inception or after-
9 wards, then there may be a conviction, even though
10 the conspirators may not have succeeded in
11 accomplishing their common object or purpose, and
12 in fact may have failed in so doing.

13 The extent of the defendant's participation,
14 moreover, is not determinative of his guilt or
15 innocence. A defendant may be convicted as a
16 conspirator even though he may have played only a
17 minor part in the conspiracy.

18 The first count charges the defendant, John
19 Anthony Housand, of a conspiracy between him and
20 Attorney Andrew A. Bucci and other persons, known
21 and unknown to the grand jury. It is important to
22 remember when considering a conspiracy charge, that
23 a person cannot conspire with himself alone. And,
24 therefore, you cannot find the defendant guilty,
25 unless you find beyond a reasonable doubt that he

44A

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1 participated in the conspiracy as charged with at
2 least one other person, whether such other person
3 is a defendant or not, and whether he is named in
4 the indictment or not.

5 The second element of proof in the conspiracy
6 count requires proof that the object of the
7 conspiracy must have been a crime. The object of
8 the conspiracy here, it is alleged, was that the
9 defendant, Housand, would provide false information
10 to the federal authorities by falsely retracting
11 testimony known and believed by him to be true,
12 which he had given under oath at the trials of
13 Joost, Guillette, Marrapese and Zinni, to assist
14 them in providing a factual basis, to procure for
15 them a new trial and secure a reversal of their
16 convictions of conspiracy to kill Daniel LaPolla,
17 when he, the defendant, Housand, already knew and
18 believed that his original testimony at trial
19 against them was truthful and accurate to the best
20 of his recollection.

21 I charge you as a matter of law that the
22 factual testimony which defendant Housand gave at
23 the aforesaid trials at Hartford and Waterbury,
24 respectively, relating to the alleged conspiratorial
25 meeting at Carter's Jewelry Store on May 8th, 1972,

45A

concerning the plan to kill Daniel LaPolla, was ¹⁵⁶⁶
material factul information.

As a part of said conspiracy, and in
furtherance thereof, the Government also alleges
that the defendant, Housand, falsely accused agents
and .ttorneys of the Federal Government with
knowingly and willfully suborning perjury by him,
the said John A. Housand, when he testified at
both of the trials at Hartford and Waterbury,
respectively, when in truth and in fact, the
Government claims no agent or attorney of the
Federal Government at any time requested,
commanded, or induced the defendant, John Housand,
to give any testimony known to be false either to
him or to said agents or attorneys.

If you find beyond a reasonable doubt, after
considering all of the evidence, that the defendant,
Housand's conduct was designed and directed toward
accomplishing an unlawful purpose, by an unlawful
means, in violation of Title 18, U.S. Code,
Section 1503 and 1001, as I have quoted them to you,
you may find the second element of the crime has
been proven.

The third element of Count 1, the conspiracy
count, requires proof that the defendant, Housand,

46A

1 knowingly and willfully joined and participated¹⁵⁶⁷
2 in the conspiracy, and committed some act or acts
3 in furtherance of some object or purpose of the
4 conspiracy as charged.

5 As a sidelight, I might say I have gone half-
6 way through, so you may gauge your time accordingly.

7 Getting back to the charge:

8 The Government must prove that the defendant's
9 act or acts were knowingly and intentionally
10 carried out. To do something knowingly is to do it
11 voluntarily and intentionally, and not because of
12 mistake or accident or other innocent reason.

13 The purpose of adding the word "knowingly" was
14 to insure that no one would be convicted for an
15 act done because of mistake or accident, or other
16 innocent reason.

17 It is for you, the jury, to determine whether
18 or not this element of the crime charged has been
19 proven beyond a reasonable doubt.

20 The fourth element required to be proven by
21 the Government is that during the existence of the
22 conspiracy at least one of the overt acts alleged
23 in the indictment was committed by one or more of
24 the members of the conspiracy, in furtherance of
25 the objectives thereof.

47A

1 In furtherance of the conspiracy, it is 1568
2 alleged among the overt acts, the following:
3 Number one, on or about July -- and this is in your
4 indictment that you will have with you -- on or
5 about July 1974, Shirley Freeman Turner placed a
6 phone call to Special Attorney Paul E. Coffey.

7 A second overt act alleged on or about
8 September 14, 1974 Andrew Bucci traveled to
9 Atlanta, Georgia, and thereafter spoke to
10 William Marrapese.

11 Third, on or about November 13, 1974 John
12 Housand and Andrew Bucci appeared in the office of
13 the United States Attorney in New Haven.

14 Fourth, on or about December 6, '74 John
15 Housand testified before a Federal Grand Jury in
16 Hartford.

17 By the term "overt act" is meant any act
18 committed by the defendant in an effort to effect
19 or accomplish some object or purpose of the
20 conspiracy. The overt act need not be in itself
21 criminal in nature, if considered separately and
22 apart from the conspiracy. It may be as
23 innocent as the act of a man walking across the
24 street, or driving an automobile, or using a
25 telephone. It must, however, be an act which

as jurors you are not allowed to consider the
1 follows and tends towards the accomplishment of 1569
2 the plan or scheme, and must be knowingly done in
3 furtherance of some object or purpose of the
4 conspiracy charged in the indictment.

5 As stated before, the burden is always upon
6 the prosecution, the Government, to prove beyond
7 a reasonable doubt every essential element of the
8 crime charged. The law never imposes upon a
9 defendant in a criminal case the burden or duty of
10 calling any witness or producing any evidence.

11 Now, under Count 2 of the indictment it is
12 charged that the defendant, John Anthony Housand,
13 with a violation of Title 18, U.S. Code, Section
14 1623, which is known as the perjury statute, in
15 that he is alleged to have falsely testified before
16 a grand jury empaneled in Hartford, Connecticut,
17 on the 6th day of December, 1974. The testimony
18 which the Government contends was false was
19 Housand's statement before the grand jury, in the
20 second count, that he had been suborned and
21 induced by certain employees of the Federal
22 Government to give false testimony at the two
23 prior criminal trials at Hartford and at Waterbury,
24 respectively.

25 The federal perjury statute provides, in

49A

pertinent part, and I quote:

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"Whoever under oath, in any proceedings before any court or grand jury of the United States knowingly makes any false material declaration shall be guilty of a crime against the United States."

Title 18, U.S. Code, Section 1623(c) further provides as follows: An indictment for violation of this section alleging that, in any proceedings before or ancillary to any court or grand jury of the United States, the defendant under oath has knowingly made two or more declarations, which are inconsistent to the degree that one of them is necessarily false, need not specify which declaration is false, if each declaration was material to the point in question; and I charge you as a matter of law that the declarations of the defendant Housand charged in the second count were material and relevant to the inquiries of the grand jury before whom he was testifying.

Item 2, the falsity of a declaration set forth in the indictment shall be established sufficient for conviction by proof that the defendant, while under oath, made irreconcilably contradictory declarations, material to the point in question,

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1 in any proceeding before or ancillary to any court
2 or grand jury. It shall be a defense to an
3 indictment made pursuant to the first sentence of
4 this subsection that the defendant at the time he
5 made each declaration believed the declaration was
6 true.

7 The definition of the legal term "perjury"
8 simply means: the willful assertion as to a matter
9 of fact or knowledge made by a witness in a
10 judicial proceeding, as part of his evidence, either
11 upon oath or in any form allowed by law to be
12 substituted for an oath, such as by affirmation,
13 and said assertion was known by the witness at the
14 time to be false.

15 The essential elements required to be proved
16 in order to establish the offense charged in
17 Count 2 of the indictment, are, first, that the
18 testimony was given under oath taken by the
19 accused before the grand jury, as to some material
20 matter in said grand jury proceedings, as charged;
21 second, that the testimony given was false in one
22 or more of the respects charged; and, third, that
23 the false testimony was willfully given, as charged.

24 If you find that either of the purported
25 statements were true, or that the defendant did not

51A

1 make these statements, or that the defendant
2 believed these statements to be true at the time
3 when he purportedly made them, or that these
4 purported statements, if false, were not material,
5 or that these purported statements were not made
6 under oath, then of course you will find him not
7 guilty of violating this section of the law.

8 The materiality of the matter involved in the
9 alleged false testimony is not a matter with which
10 you, as the jury, are concerned; but rather it is
11 a question for the Court to decide, as a matter of
12 law. You are instructed that the questions asked
13 of the accused before the grand jury, under the
14 second count, and the responses given by the
15 defendant, John Housand, as charged therein,
16 constituted material and relevant matter in the
17 grand jury proceedings.

18 The crime charged in this case is a serious
19 crime, which requires proof of specific intent
20 before the defendant can be convicted.

21 Specific intent, as the term implies, means
22 more than a mere general intent to commit the act.
23 To establish specific intent the Government must
24 prove that the defendant knowingly did an act which
25 the law forbids, purposely intending to violate the

1 law. Such intent may be determined from all the ¹⁵⁷³
2 facts and circumstances surrounding the case.

3 Intent ordinarily may not be proved directly,
4 because there is no way of fathoming or scrutinizing
5 the operations of the human mind. But you may
6 infer a defendant's interest from the surrounding
7 circumstances. You may consider any statement made
8 and done or omitted by the defendant, and all other
9 facts and circumstances in evidence which indicate
10 his state of mind. It is ordinarily reasonable to
11 infer that a person intends the natural and
12 probable consequences of acts knowingly done, or
13 knowingly omitted.

14 The defendant may not be found guilty of
15 perjury simply because he gives testimony which is
16 factually incorrect. He may have given incorrect
17 testimony because of surprise, confusion, haste,
18 inadvertence, honest mistake as to facts, carelessness
19 or negligence. As has been said, you may not
20 find him guilty unless you find beyond a reasonable
21 doubt that the giving of false testimony was
22 willful, and that the other elements of the offense
23 are present. The question and answer must be
24 unambiguously specific to support a conviction under
25 Title 18, U.S. Code, Section 1623.

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Since every crime requires a voluntary mind,
it may be a defense to a criminal charge that the
criminal act was not committed voluntarily, but
was the result of coercion or compulsion. There
is really no technical distinction in the use of
the terms coercion and compulsion, when they are
used to designate a defense in a criminal case.
And they are often used interchangeably. In fact,
the terms are practically synonymous, although
coercion is applied more accurately perhaps to the
accomplishment of one's purpose by indirect means,
as threats or intimidation, and compulsion to the
overcoming of one's will, by means of force or
physical restraint.

In order, however, to provide a legal excuse
for any criminal conduct, compulsion or coercion
must be present and immediate, and of such a nature
as to induce a well-founded fear of impending
death, or serious bodily injury; and there must be
no reasonable opportunity to escape the compulsion,
without committing the crime, or participating in
the commission of the crime. Fear of injury to
others, or to one's property, or to remote bodily
harm, do not excuse an offense.

Moreover, in order to constitute a defense to a

1 charge of criminal conspiracy, continuing over a 1575
2 course of weeks or months, the force and fear must
3 continue throughout the period charged, without any
4 reasonable opportunity to escape the commission of
5 the crime or crimes which are the purpose of the
6 conspiracy. In other words, this coercion or
7 compulsion that will excuse the criminal must be
8 present, immediate and impending, and of such a
9 nature as to induce a well-grounded apprehension
10 of death or serious bodily injury, if the act is
11 not done.

12 If, however, the evidence in the case would
13 leave you with a reasonable doubt whether, at the
14 time and place of the alleged offense, the accused
15 acted willfully and voluntarily, that is to say,
16 whether the accused was forced in effect to commit
17 the crimes charged in the indictment by coercion
18 and compulsion, and that he had no reasonable
19 opportunity to avoid such acts, as just explained,
20 then you should acquit the accused.

21 Under Counts 3 and 4, from reading the
22 indictment -- as I say, I won't read them because
23 they are lengthy, and they are very simple when
24 they are analyzed -- from reading the indictment
25 you will note that the defendant, John Housand, is

1 charged in the third and fourth counts of 1570
2 violating the same federal statute as in the second
3 count; that is the perjury statute. The only
4 difference between the charges contained in the
5 second count and the third and the fourth counts
6 is the date, the place of the alleged violation,
7 and that the perjury was committed before the
8 Court, during a trial, and not before the grand
9 jury.

10 Thus, even though each of these counts
11 charges a separate offense, the elements of the
12 proof are the same as in the second count.

13 If you find beyond a reasonable doubt that the
14 defendant, John Housand, did testify to those
15 matters as alleged in the indictment, then I
16 instruct you as a matter of law on the third count
17 that the questions asked of the defendant, Housand,
18 and the testimony he gave in response thereto,
19 before the Court and petit jury, in the trial of
20 the criminal case, H-524, concerning the guilt or
21 innocence of the defendants Guillette and Joost,
22 on or about December 13, 1973, was material and
23 relevant testimony, as a matter of law. Further-
24 more, the defendant, Housand's testimony before the
25 Federal Grand Jury on December 6, 1974, relating

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1 to the recantation of his trial testimony is 1577
2 material testimony, as a matter of law.

3 The jury is further instructed on the fourth
4 count that as a matter of law, if you find that
5 the defendant, John Housand, did testify to those
6 matters as alleged in the indictment, the questions
7 asked of the defendant Housand and the testimony
8 he gave in response, as alleged in the fourth
9 count of this indictment made at the federal court
10 and jury trial of Guillette and Joost in criminal
11 case H-524, on or about December 18, 1973, was
12 material testimony in determining the credibility
13 of the defendant Housand before the Court and jury;
14 and, furthermore, the defendant Housand's testimony
15 on December 6, 1974, before the Federal Grand Jury,
16 relating to the recantation of his trial testimony,
17 was material and relevant to said grand jury which
18 was investigating the facts and circumstances
19 surrounding his recantation of his trial testimony.

20 You, as jurors, are the sole judges of the
21 credibility of the witnesses and the weight that
22 their testimony deserves.

23 You should carefully scrutinize the testimony
24 given, the circumstances under which each witness
25 has testified, and every matter in evidence which

57A

1 tends to indicate whether the witness is worthy of¹⁵⁷⁸
2 belief. Consider each witness' intelligence,
3 motive and state of mind, and demeanor and manner
4 while on the witness stand. Consider also any
5 relation which each witness might have -- might
6 bear to either side of the case; the manner in
7 which each witness might be affected by the
8 verdict, and the extent to which, if at all, each
9 witness is either supported or contradicted by
10 other evidence.

11 Inconsistencies or discrepancies in the
12 testimony of a witness, or between the testimony of
13 different witnesses, may or may not cause the jury
14 to discredit such testimony. Two or more persons
15 witnessing an incident or a transaction may see
16 or hear it differently; and innocent misrecollection,
17 like failure of recollection, is not an uncommon
18 experience in our everyday life.

19 In weighing the effect of a discrepancy,
20 consider whether it pertains to a matter of
21 importance, or an unimportant detail, and whether
22 the discrepancy results from innocent error or
23 willful falsehood.

24 All evidence of a witness whose self-interest
25 or attitude is shown to be such as might tend to

1 prompt testimony unfavorable to the accused, 1579
2 should be considered with caution, and weighed
3 with great care.

4 A witness may be discredited or impeached by
5 contradictory evidence, or by evidence that at
6 other times the witness has made statements which
7 are inconsistent with the witness' present
8 testimony.

9 If you believe any witness has been impeached
10 and thus discredited, it is your exclusive
11 province to give the testimony of that witness
12 such credibility, if any, as you may think it
13 deserves.

14 If a witness is shown knowingly to have
15 testified falsely concerning any material matter,
16 then you have a right to distrust such witness'
17 testimony in other particulars. And you may
18 reject all the testimony of that witness, or give
19 it such credibility as you may think it deserves.

20 The rules of evidence ordinarily do not
21 permit a witness to testify as to his opinions or
22 conclusions thereon. A so-called expert witness,
23 such as Dr. Sullivan, the psychiatrist, is an
24 exception to that rule. A witness who, by
25 education and/or experience has become an expert

39A

1 in any art, science, profession or calling, may 1580
2 be permitted to state his opinions as to a matter
3 in which he is versed, and which is material to
4 the case, and may also state the reasons for such
5 opinion.

6 You should consider each expert opinion
7 received in evidence in this case, and give it
8 such weight as you think it deserves. And you may
9 reject it entirely if you conclude the reasons
10 given in support of the opinion are unsound.

11 There was testimony here from law enforcement
12 officers. The testimony of a law enforcement
13 officer is entitled to no special or exclusive
14 sanctity merely because it comes from a law
15 enforcement officer.

16 A law enforcement officer, who takes the
17 witness stand, subjects his testimony to the same
18 examination and the same tests that any other
19 witness does, and in the case of such officer you
20 should not believe him merely because he is a law
21 enforcement officer. You should evaluate his
22 testimony, as you do that of any other witness.

23 With respect to the defendant, John Housand,
24 who testified, you must carefully consider his
25 testimony. An accused person is not obligated to

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1 take the witness stand in his own behalf. On the 1581
2 other hand, he has a perfect right to do so, as the
3 defendant has done here.

4 In weighing the testimony he has given, you
5 should apply the same principles by which the
6 testimony of the other witnesses is tested,
7 including the witnesses called by the Government.
8 An accused person, having taken the witness stand,
9 is before you just like any other witness. And
10 is entitled to the same consideration, and you may
11 have his testimony measured in the same way as any
12 other witness.

13 You have heard testimony pertaining to the
14 alleged involvement of the witness Marrapese in
15 this matter. Mr. Marrapese stands in the position
16 of an informer, or unindicted co-conspirator.
17 Therefore, you must examine his testimony with
18 greater scrutiny than the testimony of an ordinary
19 witness.

20 You have also heard testimony of the prior
21 felony convictions of the witnesses Marrapese and
22 Mr. Housand. This testimony was admitted into
23 evidence as an attack upon their credibility.
24 The weight to be attached to such testimony and the
25 effect which you find upon credibility as to each

61A

1 such witness is for you, the jury, to determine. 1582

2 The witness, William Marrapese, testified that.
3 among other things, his life sentence was reduced
4 to a term of six years over in the court in
5 Waterbury. Now, he was brought under the witness
6 protection program of the United States Marshal's
7 Service, and his family was relocated. This
8 testimony was admitted into evidence for the
9 purpose of showing motive, interest, bias or
10 prejudice, and was admitted as an attack upon the
11 credibility of the witness Marrapese. The weight
12 to be attached to such testimony and the effect
13 which you find upon his credibility as a witness,
14 is for you, the jury, to determine.

15 In other words, you are entitled to consider
16 whether the reduction of his sentence had any
17 bearing upon the truth or falsity of his testimony,
18 and the weight to be given to it. Clearly, it is
19 not for you to ascertain or make any determination
20 whether you believe in the decision that the law
21 enforcement agents and the Court in Waterbury
22 arrived at with respect to the reduction of his
23 sentence. Nor should you permit that factor to
24 enter into or affect your deliberations in any
25 manner, other than as I have just explained to you.

G2A

1583

1 I would also advise you that under your oath
2 as jurors you are not allowed to consider the
3 punishment which might be imposed by the Court upon
4 a convicted defendant to influence your verdict in
5 any way, or in any sense to enter into your
6 deliberations.

7 The duty of imposing sentence, in the event
8 of a conviction, has been vested by the Congress in
9 the Court. The length of sentence that could be
10 imposed is not a matter for your consideration.
11 Your function is solely to determine the guilt or
12 innocence of the defendant on the basis of the
13 factual testimony and the law as I have instructed
14 you.

15 The verdict must represent the considered
16 judgment of each juror. In order to return a
17 verdict it is necessary that each juror agree
18 thereto. In other words, your verdict must be
19 unanimous.

20 It is your duty as jurors to consult with one
21 another and to deliberate with a view to reaching
22 an agreement, if you can do so without violence
23 to individual judgment. Each of you must decide
24 the case for yourself, but do so only after an
25 impartial consideration of the evidence with your

63A

1 fellow jurors. 1584

2 In the course of your deliberations do not
3 hesitate to reexamine your own views and change
4 your opinion if convinced it is erroneous. But,
5 do not surrender your honest conviction as to the
6 weight or effect of evidence solely because of
7 the opinion of your fellow jurors, or for the
8 mere purpose of returning a verdict.

9 Upon retiring to the jury room you will
10 select one of your number as a foreman, or
11 forelady -- probably today we can say a foreperson.
12 Such person shall act as a kind of chairman or
13 chairlady of the panel, and will be your spokesman
14 here in court.

15 Now, when you retire to the jury room, that
16 will be the first order of business. With a
17 chairman you can then have some orderly discussion
18 of what is before you.

19 But do not consider or discuss the case or
20 its merits until the clerk brings in to you the
21 exhibits and this indictment.

22 And the reason for that is very simple: after
23 you have retired I'm confident that both attorneys
24 will ask the Court to explain something more fully,
25 or to correct some statement the Court made. And

64A

1 if the Court agrees with them on some point that 1585
2 hasn't been covered, I would call you back and
3 cover it, or attempt to cover the points raised.

4 But, when the Clerk brings in to you this
5 indictment, and a copy of the exhibits, you will
6 then know that you may proceed to conclusion with
7 your deliberations.

8 The jury is now excused.

9 (In the absence of the jury):

10 THE COURT: Counsel for the Government, do
11 you have any exceptions to note?

12 MR. CASEY: No, your Honor.

13 THE COURT: Counsel for the defendant, do you
14 have any exceptions to note?

15 MR. HEIMAN: If your Honor please, I would
16 especially except to that portion of your Honor's
17 charge with respect to each count in which you
18 charged the jury as a matter of law that the
19 matters were material. I except because I submit
20 to your Honor that that diminishes the right of
21 my client, when tried by the jury, by removing
22 from the jury an issue of fact, and thereby
23 making it a trial not by jury, but a trial
24 determined as a matter of law, by the Court on the
25 one hand, in telling the jury to determine that as

65A

CRIMINAL DOCKET
UNITED STATES DISTRICT COURT

TEC

D. C. Form No. 100 Rev.

REC'D JUN 11 1976

CRIMINAL H-74-185

TITLE OF CASE		ATTORNEYS					
THE UNITED STATES		For XXX : Defendants:					
vs.							
D. Guillette		Hubert Santos, Appt.					
Andrew A. Bucci, et als.		51 Russ St.					
		Hartford, Conn.					
R. Joost -		James A. Wade, Appt.					
		799 Main St.					
		Hartford, Conn.					
Edward J. Pellegrino -		For Defendant: John A. Housand					
John L. Hayes - Appt.		Ralph G. Elliot - Appt.					
One Constitution Plaza		One American Row					
Hartford, Conn. 06103		Hartford, Conn. 06103					
Phone: 278-5080		Phone - 522-1216					
Andrew A. Bucci, Pro se							
9 Steeple Street							
Providence, Rhode Island							
STATISTICAL RECORD	COSTS		DATE	NAME OR RECEIPT NO.	REC.	DISB.	
J.S. 2 mailed	Clerk						

173

T. ELMET CLARK

D. C. Form No. 100 Rev.

A. Bucci, Cts. 1, 2, 3, 4 & 6 Shirley Turner --
J. Housand, Cts. 3, 4, 5 & 6
All others, ct. 6

DATE	PROCEEDINGS
1974	
12/11	The Grand Jury at Hartford returned a True Bill of Indictment Charging violation of 18 USC 1623 in counts 1, 2 & 5 - while under oath, did knowingly make false material declarations; 18 USC 1503 and 2 in ct. 3 - did endeavor to influence, obstruct and impede the due administration of justice - 18 USC 1001 and 2 in ct. 4 - did make false, fictitious and fraudulent statements and representations to the U. S. Dept. of Justice in matters within the jurisdiction of that department; and 18 USC 371 in ct. 6 - conspiracy. Bench Warrants to issue for Andrew Bucci, John T. Gibson, Edward J. Pellegrino and Shirley F. Turner - Bonds, Bucci- Personal Recognizance \$10,000.00; Gibson - \$5,000.00 with full surety; Pellegrino - \$5,000.00 with full surety and Turner - \$5,000.00 personal recognizance. Mr. Housand is already under bond - Messrs. Joost & Guillette to be held without bond. (Clarie, J.)m-12/12/74
12/11	Motion by Atty. Ozer for continuance of hearing/ on Cr. H-524- until trial on Cr. H-74-185 - Objections by all Defense Attorneys. - Hearing will proceed on the 17th as scheduled - In Cr. H-74-185, Atty. Ozer requests bail of \$250,000.00 - Objections by Attys. made and Santos - Bond of \$25,000.00 with full surety on Defendants

CONTINUED 2B

PAGE
1974

PROCEEDINGS

12/11 Cont'd... Joost and Guillette in this case - Govt. ordered to give Wm. Freeman's address to Atty. Santos - Attys. Wade and Santos to be appointed for Defts Joost and Guillette after proper financial affidavits are filed - Deft. Joost advised of his rights by the Court - Robert JOOST, PLEA of not guilty to count #6 entered, Bond \$25,000.00 with full surety - 2 weeks for motions - Govt. to respond in one week - David GUILLETTE, PLEA of not guilty to count #6 entered. Bond \$25,000.00 with full surety - 2 weeks for motions - Govt. to respond in one week. (Clarie, J.)m-12/13/74

12/12 ARRAIGNMENTS AND PLEAS - ; Notice of Readiness, filed by Govt. ANDREW BUCCI - PLEA of not guilty to counts 1,2,3,4&6 entered and accepted Bond already set - 2 weeks for motions - Govt. to respond in one week. EDWARD J. PELLEGRINO - PLEA of not guilty to count #6 entered. Bond \$5,000.00 with full surety - Financial Affidavit, filed. Two weeks for motions - Govt. to respond in one week. JOHN T. GIBSON - PLEA of not guilty to count #6 entered. Bond \$5,000.00 with full surety. Financial Affidavit, filed - Atty. Sturtevant to serve as Defense Attorney for arraignment and plea only due to possible conflict Clerk's Office to appoint Attorney. Two weeks for motions - Govt. to respond in one week. JOHN A. HOUSAND - PLEA of not guilty to counts 3,4,5 & 6 entered. Bond set at \$100,000.00 with full surety - Motion by Atty. Elliott to dismiss Deft. Housand on material witness bond, Motion Granted - New bond effective forthwith - Two weeks for motions - Govt. to respond in one week - Atty. Elliott states he believes that the Defendant should have an experienced criminal lawyer - he will remain to assist - Court to appoint a new lawyer. (Clarie, J.)m-12/13/74

12/12 BOND in the amount of \$5,000.00 with full surety, filed re Deft. John T. Gibson. Surety Resolute Ins. Co. by Paul A. LaRosa.

" BOND in the amount of \$5,000.00 with full surety, filed re Deft. Edward J. Pellegrino. Surety Resolute Ins. Co. by Paul A. LaRosa.

12/13 CJA 20 executed, (Clarie, J.) appointing F. Timothy McNamara to represent defendant John A. Housand.

12/13 CJA 20 executed, (Clarie, J.) appointing Leonard I. Shankman to represent defendant, John T. Gibson.

12/13 CJA 20 executed, (Clarie, J.) appointing Courtney B. Bourns to represent defendant, Shirley Freeman Turner.

12/16 Motion To Withdraw, filed by Atty. Sturtevant re Deft. Pellegrino.

12/17 Motion For Psychiatric Examination with Order thereon, filed. (Clarie, J.)m-12/19/74 ORDERED that Deft. Housand should be examined by Dr. John Donnelly, M.D. at the US prison facility at Danbury." Copies Sent to Attys. Ozer, McNamara, Bourns and Shankman. Copy sent to Atty. John L. Hayes. Copies mailed to Attys. Santos & Wade. Two attested copies handed US Marshal for service.

12/20 Appearance of Courtney B. Bourns, Esq., to represent Deft. Shirley Freeman Turner, filed and entered.

12/20 CJA 20 executed (Templeton, D.C.) appointing John L. Hayes, Esq., to represent Deft. Edward J. Pellegrino

12/20 CJA 20 executed (Templeton, D.C.) appointing Ralph G. Elliot, Esq., to represent Deft. John A. Housand.

12/17 JOHN HOUSAND - Hearing on Motion for Psychiatric Examination filed by Atty. McNamara - Affidavit to be filed by Atty. McNamara. (Clarie, J.)m-12/18/74

CONTINUED ON PAGE 2

3B

DATE	PROCEEDINGS
1974	
12/17	SHIRLEY F. TURNER - PLEA of not guilty to counts #6 entered. Continued on same bond - Motions to be filed in two weeks. Govt. to respond in one week. (Clarie, J.) m-12/18/74
	ROBERT JOOST - Defense requests that bail be set - Motion Denied. Deft. Guillette joins Motion, Motion Denied. (Clarie, J.) m-12/18/74
12/23	Appearance of Leonard I. Shankman entered and filed to represent Defendant, John T. Gibson.
12/24	Defendants Joost and Guillette's Motion to Dismiss, filed.
12/24	Defendants Joost and Guillette's Motion To Dismiss, filed.
12/26	Defendant Bucci's Motion To Sever and Motion To Dismiss, filed.
12/27	CJA 20 Executed (Templeton, D.C.) appointing Hubert J. Santos, Esq., to represent Deft. David Guillette.
12/27	CJA 20 Executed (Templeton, D.C.) appointing James A. Wade, Esq., to represent Deft. Robert Joost.
12/24	Magistrate's Papers, filed... record of Proceedings-Misc. and Bond in the amount of \$5,000.00 own recognizance w/o security re Shirley Turner, (Grayson, Mag. Dist. of Ga. So. Div.)
12/24	Marshal's executed return, filed. (Warrant for Arrest of Deft. Shirley Turner)
12/27	Appearance of John L. Hayes entered and filed to represent the defendant, Edward J. Pellegrino.
12/27	Endorsement entered and filed on Atty. Sturtevant's Motion To Withdraw, "12/27/74 Motion to withdraw is granted." (Clarie, J.) m-1/2/74 Copies sent to Counsel of record.
12/30	Motion For Relief From Prejudicial Joinder of Defendants re Deft. Joost, filed.
12/30	Motion For Relief from Prejudicial Joinder of Defendants re Deft. Guillette, filed.
12/30	Motion For Relief From Prejudicial Joinder of Counts re Defts. Guillette and Joost, filed.
12/31	Appearance of Courtney B. Bourns entered and filed to represent Defendant Shirley F. Turner.
12/31	Motion For Relief From Prejudicial Joinder of Defendants and Offenses; Motion To Dismiss; Motion To Dismiss; Motion To Dismiss and Motion For Change of Venue, filed re Deft. Shirley Turner.
12/31	United States Answer To Motions To Dismiss By Defendant Turner; United States' Answer To The Motion For Change of Venue by Defendant Turner; United States' Answer To Motion For Relief From Prejudicial Joinder of Defendants and Offenses by Defendant Turner; United States' Answer to Motion To Sever By Defendant Bucci; United States' Answer to Motions To Dismiss By Defendants Guillette and Joost; United States' Answer to Motion For Relief From Prejudicial Joinder of Defendants By Defendant Guillette; United States' Answer To Motion For Relief From Prejudicial Joinder of Defendants By Defendant Joost; United States Answer To Motion For Relief From Prejudicial Joinder of Counts by Defendants Joost and Guillette; and United States Answer To Motion To Dismiss by Defendant Bucci, filed.
12/30	Marshal's executed return, filed. (Order re Psychiatric Exam.)
1/2	Appearance of Ralph G. Elliot entered and filed to represent Defendant John A. Housand.
1/2	Amended Order, filed. (Clarie, J.) m-1/3/74 (Re: Exam of John Housand by Dr. John Donnelly) Two attested copies handed US Marshal in Hartford for service. Copy sent to Attys. Ozern and McNamara.

DATE 1975	PROCEEDINGS
✓ 1/6	Motion To Examine and Copy Psychiatric Records, filed by Atty. McNamara with Order granting same. (Clarie, J.) m-1/9/75
Δ 1/8	Deft. Gibson's Motion To Dismiss, Motion For Change of Venue, Motion For Relief From Prejudicial Joinder of Defendants and Offenses and Motion To Dismiss, filed.
× 1/8	United States Answer To Motion For Relief From Prejudicial Joinder of Defendants and Offenses by Defendant Gibson; United States Answer To Motion For Change of Venue by Defendant Gibson and United States Answer to Motions To Dismiss by Defendant Gibson, filed.
× 1/9	Memorandum in Support of Motion of Defendant Shirley Freeman Turner For Change of Venue and Memorandum In Support of Motion of Defendant Shirley Freeman Turner For Relief From Prejudicial Joinder, filed.
1/9	Marshal's executed returns, filed. (Warrants, Defts. Bucci, Gibson and Pellegrino)
1/13	All motion over to Feb. 10 at 10:00 a.m. (Clarie, J.)
1/22	Court Reporter's Notes of Proceedings held on December 11, 1974, filed in Hartford. (Sperber, R.)
Δ 1/24	Motion For Hearing, filed along with Affidavit of Counsel for the Defendants Guillette and Joost.
× "	Motion For Brady Material Concerning Informants or Cooperating Individuals; Request Pursuant to Standing Order; Motion By Defendants For Discovery and Inspection and Bill of Particulars, filed. (All re: Defts. Guillette and Joost)
1/15/75	Marshal's return showing service of Amended Order
× 2/18	Misc Motion Filed by Def. Bucci.
3/21	On Motion of Atty. John Dowd, the indictment on H-74-185 is dismissed without prejudice. (Clarie, J.)
3/26	ORDER FOR DISMISSAL OF THE INDICTMENT re all defendants, filed. Copy handed Atty. Casey and copies mailed to all counsel of record.
4/30	Court Reporter's Notes of Proceedings held on December 17, 1974, filed in Hartford. (Sperber, R.)
6/9	CJA 20 executed (Clarie, J.) re Atty. Santos and mailed to A.O. for payment.
6/26	CJA 20 executed (Blumenfeld, J.) and mailed to A.O. for payment re John T. Gibson.
7/14	Duplicate CJA 20 mailed to Atty. Elliot (Templeton, D.C.) Original 1c
8/20	Court Reporter's Notes of Proceedings held on December 12, 1974, filed in Hartford. (Sperber, R.)

to give untruthful testimony at those trials?
UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 11-74-185

ANDREW A. BUCCI, JOHN T. GIBSON,
DAVID GUILLETTE, JOHN ANTHONY
HOUSAND, ROBERT JOOST, EDWARD J.
PELLEGRINO, and SHIRLEY FREEMAN
TURNER

I N D I C T M E N T

The Grand Jury charges:

COUNT I

1. On or about the 6th day of June, 1974 in the District of Connecticut, ANDREW A. BUCCI, being then and there a witness in the case of United States v. David Guillette, Robert Joost, Nicholas Zinni, and William Marrapese, Criminal No. H-524, pending before the United States District Court in the District of Connecticut, while under oath, did knowingly make false material declarations.

2. At the said time and place it was material to the said Court and Jury to determine whether or not, on the 25th day of September, 1972 ANDREW A. BUCCI had engaged in bona fide professional efforts, as an attorney, to locate a certain witness, Daniel LaPolla, or whether, on the contrary, on the said date, ANDREW A. BUCCI assisted William Marrapese, Robert Joost, and David Guillette in the efforts of those individuals to locate and intimidate the said witness; and it was specifically material to the said Court and Jury to ascertain whether on September 25, 1972 ANDREW A. BUCCI had stated to special agents of the Bureau of Alcohol, Tobacco and Firearms his true purpose when he requested admittance to the Rectory of the Holy Ghost Church in Providence, Rhode Island, and whether or not ANDREW A. BUCCI, upon leaving the said Rectory, met and spoke with William Marrapese, Robert Joost, and David Guillette.

3. At said time and place, ANDREW A. BUCCI, being first sworn to testify truthfully, gave certain testimony as follows:

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U.S. DISTRICT COURT
HARTFORD, CONN.

"Q. All right. And what happened after you requested permission to enter?

A. He was not allowed at first, and there was some discussion about my getting in. I can tell you what I said to the agents. I said to them that I wanted to be admitted, and my sole purpose, "sole purpose was to find out if Daniel La Polla was attending that wake, he, the Reverend LaPolla, having been his brother, and I indicated to the officer, namely, Sal Petrella, that I sought the admission to the parlor for the purpose of interviewing Mr. LaPolla, if he would be interviewed, and he could refuse me, and I told the officer if he would like to come in with me or the agent and be present when I interviewed him or not be present, but that was my purpose. I was led into the funeral parlor at that point.

....

Q. In fact, your sole purpose of being at the Rectory was to interview Daniel LaPolla --

A. No question about it.

Q. -- on behalf of Mr. Marrapese?

A. That is correct, sir.

Q. I believe your testimony was that you told Agent Petrella that that was your sole purpose?

A. That is correct.

Q. And he could be present at an interview with Mr. LaPolla if Mr. LaPolla consented to it?

A. That is correct.

Q. Any doubt in your mind about that statement?

A. No doubt at all.

Q. Now, did you attempt to shove anyone out of the way to get into the Rectory area when you first arrived?

A. No. I did not.

Q. Did you place your hand on any Federal Agent?

A. No. I did not.

Q. You're sure?

A. Quite the contrary.

. . .

Q. And you left the interior area and that is when you met with Mr. Marrapese, Mr. Joost and Mr. Guillette?

A. I didn't meet with them at all. I saw them and I went by them.

7B

Q. Did you have any discussion with them?

A. No. I did not.

Q. Did you stop in the close physical proximity to Mr. Joost and Mr. Guillette?

A. Not to my recollection, sir.

Q. Did Mr. Marrapese stop and talk with Mr. Guillette and Mr. Joost that you observed?

A. Not in my view.

Q. Are you sure of that?

A. Yes."

4. The said testimony of ANDREW A. BUCCI, as he then and there well knew, was false in that on September 25, 1972, he did not ask any Special Agent of the Bureau of Alcohol, Tobacco and Firearms to be permitted to enter the Rectory of the Holy Ghost Church in Providence, Rhode Island during the wake for Reverend Angelo LaPolla in furtherance of a bona fide effort, as an attorney, to locate a certain witness, Daniel; and, on the contrary, he entered the said Rectory to locate the said witness,

Daniel LaPolla to assist William Marrapese, David Guillette and Robert Joost in their efforts to intimidate the said witness, and upon leaving the said territory he met and spoke with William Marrapese, David Guillette and Robert Joost.

All the above is in violation of Title 18, United States Code, Section 1623.

COUNT II

The Grand Jury further charges:

1. On the 3rd day of December, 1974, in the District of Connecticut, ANDREW A. BUCCI, being then and there a witness, under oath, before the United States Grand Jury did knowingly make false material declarations.

2. At the said time and place it was material to the said grand jury to ascertain whether or not prior to April, 1973, JOHN ANTHONY HOUSAND was in possession of information of any kind relating to past, or then

8B

current criminal activity by David Guillette, Robert Joost, William Marrapese, Nicholas Zinni and Andrew A. BUCCI; and specifically whether JOHN A. HOUSAND had communicated to ANDREW A. BUCCI through Robert R. White, an attorney, any message to ANDREW A. BUCCI wherein JOHN A. HOUSAND implied that he, JOHN A. HOUSAND, had knowledge of criminal activity involving David Guillette and ANDREW A. BUCCI and that it would be necessary for ANDREW A. BUCCI to have money sent to JOHN A. HOUSAND to secure JOHN A. HOUSAND's continued silence; and specifically whether or not ANDREW A. BUCCI had discussed his prior experiences or dealings with JOHN A. HOUSAND during a telephone conversation with Robert R. White, an Arkansas attorney retained by JOHN A. HOUSAND at approximately the first week of August, 1972.

3. At said 3rd day of December, 1974, ANDREW A. BUCCI, being first sworn to testify truthfully, gave certain testimony concerning a telephone conversation with Robert R. White as follows:

"Q. Was it subsequent to this call from the woman that you received a call from the lawyer?

A. Yes, and again, I don't recall the name; simply asking whether or not somebody had contacted me on behalf of his client, John Anthony Housand, and was there any finances to be arranged with him. I indicated to him I got a message to David, and he suggested that he would not help him financially.

Q. Does the name, Robert White, sound familiar as to the name of the lawyer?

A. I don't recall.

Q. The lawyer, in any event, did he state anything that you can recall as having the same threatening or nasty --

A. (Interposing) Not at all.

Q. Did he communicate any specific message from Mr. Housand?

A. None.

Q. Did he in any way intimate in the slightest degree that Mr. Housand might create problems for Mr. Guillette or anybody else if money were not forthcoming?

A. No.

Q. You are quite clear this was not insinuated or intimated in any way?

9B

A. You are talking about the lawyer?

Q. Yes.

A. No.

Q. You are quite clear that the lawyer did not --

A. (Interposing) Did not threaten.

Q. Did not threaten, or did he insinuate?

A. No.

Q. Imply?

A. No.

Q. Or suggest in any way whatsoever?

A. Not at all.

Q. It was simply a request for information as to whether money, funds, could be made available for Mr. Housand, and you simply advised him you had received similar requests from a woman, had delivered the message, and you understood no money was coming?

A. That is correct.

Q. Did you give any advice to that attorney with respect to how he should conduct himself with respect to Mr. Housand.

A. No.

Q. Did you relate to him any of your prior experiences or dealings with Mr. Housand?

A. No.

Q. Did you communicate to that lawyer any information concerning problems that Mr. Housand either had or had created back in Rhode Island?

A. No.

Q. Did you state in any way to that lawyer that he should be careful in his dealings with Mr. Housand?

A. No.

Q. Did you suggest in any way to that lawyer that he should refrain from having any further involvement with Mr. Housand?

A. No.

4. The said testimony of ANDREW A. BUCCI, as he then and there well knew was false in that in approximately the first week of August, 1972,

Robert R. White communicated to ANDREW A. BUCCI, by telephone, a threatening message from JOHN A. HOUSAND, upon which occasion ANDREW A. BUCCI communicated to Robert R. White certain prior experiences that ANDREW A. BUCCI had with JOHN A. HOUSAND and further that Robert R. White should be careful in any dealings with JOHN A. HOUSAND and should refrain from further involvement with JOHN A. HOUSAND.

All of the above in violation of Title 18, United States Code, Section 1623.

COUNT THREE

The Grand Jury further charges:

1. On the 13th day of November, 1974, and for a period of time prior thereto in the District of Connecticut, JOHN A. HOUSAND and ANDREW A. BUCCI did endeavor to influence, obstruct and impede the due administration of justice.

It was part of the said endeavor that JOHN A. HOUSAND and ANDREW A. BUCCI would appear before the United States Attorney for the District

of Connecticut on the said date and then and there orally submit to the said United States Attorney a purported recantation of testimony given by JOHN A. HOUSAND during the trials of United States v. Robert Joost, David Guillette, Nicholas Zinni, and William Marrapese, Criminal No. H-524, in the United States District Court for the District of Connecticut, which recantation the said JOHN A. HOUSAND and ANDREW A. BUCCI well knew to be false, fraudulent, and corruptly obtained and created.

2. It was part of said endeavor by JOHN A. HOUSAND and ANDREW A. BUCCI that the said false, fictitious and fraudulent recantation would and did become the basis for certain post-trial motions by means of which JOHN A. HOUSAND and ANDREW A. BUCCI would endeavor to corruptly and fraudulently obstruct, impede and nullify judgments of conviction and sentences of imprisonment imposed by the United States District Court for the District of Connecticut in the said case, United States v. David Guillette, Robert Joost, Nicholas Zinni, and William Marrapese, Criminal No. H-524.

11B

All of the above in violation of Title 18, United States Code, Section 1503, and 2.

COUNT IV

The Grand Jury further charges:

1. On or about the 13th day of November, 1974, in the District of Connecticut, JOHN A. HOUSAND and ANDREW A. BUCCI did knowingly and willfully make false, fictitious and fraudulent statements and representations to the United States Department of Justice in matters within the jurisdiction of that department.

2. At the said time and place, JOHN A. HOUSAND and ANDREW A. BUCCI did make to the United States Attorney for the District of Connecticut, a duly constituted officer of the United States Department of Justice, charged with the duty to investigate and prosecute all crimes against the United States in the District of Connecticut, certain false and fraudulent material allegations of criminal conduct by diverse other persons as more fully set forth herein, well knowing the said allegations to be false, fictitious and fraudulent.

3. At the said time and place, JOHN A. HOUSAND and ANDREW A. BUCCI did represent to the United States Attorney that Earl Fowler, James Waterson, Robert Creighton, Richard Weronik, Stanley Comforti, and Salvatore Petrella, Special Agents of the Bureau of Alcohol, Tobacco and Firearms, and Paul E. Coffey, Gerald McDowell, and Jeffrey Johnson, Special Attorneys, United States Department of Justice did suborn and coerce JOHN A. HOUSAND to give perjurious testimony at the trials of United States v. Robert Joost, David Guillette, Nicholas Zinni and William Marrapese in the United States District Court for the District of Connecticut, Criminal No. H-524.

4. The said statement and representation were false in that the above-named special agents of the Bureau of Alcohol, Tobacco and Firearms, and the above-named Department of Justice Special Attorneys never advised JOHN A. HOUSAND to give any false testimony at any time; and, on the contrary, admonished JOHN A. HOUSAND at all times relevant to testify truthfully to the best of his knowledge.

12B

All of the above is in violation of Title 18, United States Code, Section 1001 and 2.

COUNT V

The Grand Jury further charges:

1. On the 6th day of December, 1974, in the District of Connecticut, JOHN ANTHONY HOUSAND, being then and there a witness, under oath, before the United States Grand Jury, did knowingly make false material declarations.

2. At the said time and place it was material to the said grand jury to ascertain whether or not JOHN ANTHONY HOUSAND had been suborned and induced to give false testimony at the trials of the case, United States v. David Guilletti, Robert Joost, Nicholas Zinni, and William Marrapese, Criminal No. H-524, in the United States District Court for the District of Connecticut; and whether or not JOHN ANTHONY HOUSAND had ever, prior to November 13, 1974, stated to any employee of the United States that such testimony was false.

3. On the said 6th day of December, 1974, JOHN ANTHONY HOUSAND,

being first sworn to testify truthfully, gave certain testimony as follows:

"Q. Would you please explain to the jury what caused you to give untruthful testimony at those trials?

A. I received various inducements by certain individuals from the federal government.

Q. I would like you to be somewhat more specific and complete. Tell us exactly what happened to cause you to testify untruthfully at those trials.

A. Well, it started on or about the 15th of April of 1973. I was serving a prison sentence in the State of North Carolina. On that date, I was visited by two agents from the A.T.F. Division of the Treasury Department out of Hartford here. One name is James Waterson, and the other name of the agent was Earl Fowler...

. . . .

Q. Go on.

A. And they says, "This is basically the way it will be." I says, "You want me to give you a statement based on what you feed to me and I, in turn, go up there," and

13B

they says, "Well, yes, this is what we will do".

. . .

Q. So the first time you agreed to do it was after Waterson and Fowler told you that they could throw in these added inducements, the five thousand dollars, the relocation, the new identity?

A. On the lie part, yes.

Q. Until they threw in those additional inducements, you would not agree to give the false testimony?

A. I hadn't been asked to up to that point.

. . .

Q. I think we are back where we just finished the Grand Jury, and then after that Coffey and Petrella came to visit you in jail?

A. Yes.

Q. Did you see anybody else before trial?

A. Many, many times. I saw Coffey; I saw Petrella; I saw Waterson; I saw Fowler, Weronik, Creighton.

Q. Was each one of these persons advised by you that your testimony was, in fact, false? I am not asking you to just assume they knew the things you knew. Tell me which ones of those people who actually at one time you said in understandable English words, "You know this is all false, all a frameup," or something to that effect?

A. Coffey, Petrella, Fowler, Waterson and Weronik.

Q. How about Johnson?

A. You said prior to trial.

Q. Okay, that's right. You have covered it now prior to trial?

A. Yes.

Q. During the trial, who else actually did you tell or in whose presence did you ever say that your testimony was false?

A. Coffey, Petrella, Johnson, Fowler and Waterson.

Q. How about Marshal Paul Connolly?

A. He overheard the conversation."

4. The said testimony of JOHN ANTHONY HOUSAND, as he then and there well knew was false in that he was not suborned and induced to give false testimony at the said trials, and he never prior to November 13, 1974, stated to any employee of the United States that such testimony was false.

All of the above is in violation of Title 18, United States Code, Section 1623.

COUNT VI

The Grand Jury further charges:

1. From on or about the first day of October, 1974, up until the date of the return of this indictment, in the District of Connecticut and elsewhere, JOHN ANTHONY HOUSAND, ANDREW A. BUCCI, SHIRLEY FREEMAN TURNER, ROBERT JOOST, DAVID GUILLETTE, JOHN T. GIBSON, and EDWARD J. PELLEGRINO did combine, conspire, confederate, and agree, together among themselves and with other persons whose identities are unknown to the grand jury, to commit offenses against the United States, to wit, obstruction of justice, submission of false statements to a department of the United States, and false declarations before a United States Grand Jury.

2. It was part of the said conspiracy that the said JOHN ANTHONY HOUSAND, ANDREW A. BUCCI, SHIRLEY FREEMAN TURNER, ROBERT JOOST, DAVID GUILLETTE, JOHN T. GIBSON, and EDWARD J. PELLEGRINO would endeavor to influence, obstruct and impede the due administration of justice by the sub-

mission to the United States Attorney for the District of Connecticut of a certain purported recantation by JOHN ANTHONY HOUSAND of testimony given by JOHN ANTHONY HOUSAND at the trials of United States v. David Guillette, Robert Joost, Nicholas Zinni, and William Marrapese, Criminal No. H-524, in the United States District Court for the District of Connecticut, which purported recantation would be false, fraudulent, and corruptly obtained and created in an endeavor to corruptly and fraudulently obstruct, impede, and nullify judgments of conviction and sentences of imprisonment imposed in the said case, in violation of Title 18, United States Code, Section 1503.

3. It was further a part of the said conspiracy that the said JOHN ANTHONY HOUSAND, ANDREW A. BUCCI, SHIRLEY FREEMAN TURNER, ROBERT JOOST, DAVID GUILLETTE, JOHN T. GIBSON, and EDWARD J. PELLEGRINO would knowingly and wilfully make false, fictitious and fraudulent statements and representations to the United States Department of Justice in matters within the

15B

jurisdiction of that department by submitting to the United States Attorney for the District of Connecticut certain false and fraudulent material allegations that certain Special Agents of the Bureau of Alcohol, Tobacco and Firearms and certain Special Attorneys of the United States Department of Justice did suborn and coerce JOHN ANTHONY HOUSAND to give false testimony at the trials of United States v. David Guillette, Robert Joost, Nicholas Zinni, and William Marrapese, Criminal No. H-524 in the United States District Court for the District of Connecticut, even though, as the said defendants did and would know, the said Special Agents and Special Attorneys never did suborn or coerce any such false testimony; in violation of Title 18, United States Code, Section 1001.

4. It was further a part of the said conspiracy that the said JOHN ANTHONY HOUSAND, ANDREW A. BUCCI, SHIRLEY FREEMAN TURNER, ROBERT JOOST, DAVID GUILLETTE, JOHN T. GIBSON, and EDWARD J. PELLEGRINO would cause JOHN ANTHONY HOUSAND to be a witness before the United States Grand Jury, and, after being first sworn to testify truthfully, to knowingly make false material declarations that he had been suborned and induced by certain

Special Agents of the Bureau of Alcohol, Tobacco, and Firearms and certain Special Attorneys of the United States Department of Justice to testify falsely at the trials of United States v. David Guillette, Robert Joost, Nicholas Zinni, and William Marrapese, Criminal No. H-524 in the United States District Court for the District of Connecticut, even though, as the said defendants did and would know, the said Special Agents and Special Attorneys never did suborn or coerce any such false testimony; in violation of Title 18, United States Code, Section 1623.

5. Pursuant to the said conspiracy and for the purpose of accomplishing the objectives thereof, the said defendants did commit, among others, the following:

OVERT ACTS

1. On or about October 20, 1974, the defendants ROBERT JOOST, JOHN T. GIBSON, ..., and EDWARD PELLEGRINO met together.

16B

2. On or about October 20, 1974, the defendants ROBERT JOOST and DAVID GUILLETTE met together.

3. On or about November 11, 1974, the defendants JOHN ANTHONY HOUSAND and ANDREW A. BUCCI conducted a telephone conversation.

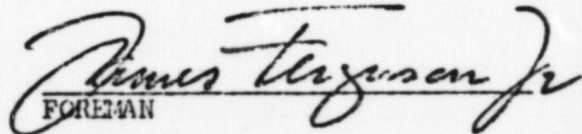
4. On or about November 13, 1974, the defendants JOHN ANTHONY HOUSAND and ANDREW A. BUCCI made certain representations to the United States Attorney for the District of Connecticut.

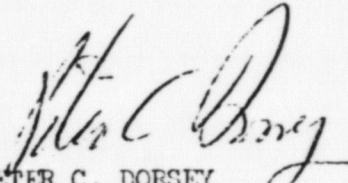
5. On or about November 4, 1974, or November 5, 1974 the defendant SHIRLEY FREEMAN TURNER conducted a telephone conversation with one William Freeman.

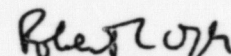
6. On or about November 15, 16 and 17, 1974, the defendant SHIRLEY FREEMAN TURNER traveled from Savannah, Georgia to Providence, Rhode Island.

All of the above is in violation of Title 18, United States Code, Section 371.

A TRUE BILL


FOREMAN


PETER C. DORSEY
United States Attorney



ROBERT C. OZER
Special Attorney
U.S. Department of Justice

CERTIFICATION:

This is to certify that a copy of the foregoing was mailed, postage prepaid, to:

Peter Casey, Esquire
United States District Court
U.S. Courthouse
450 Main Street
Hartford, Connecticut

this 26 day of July, 1976.


CLENDENEN & LESSER